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STATEMENT OF INFORMATION SUBMITTED
ON BEHALF OF PRESIDENT NIXON

H E A R I N G S

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803

A RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE
ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT
GROUNDS EXIST FOR THE HOUSE OF REPRESENTATIVES TO
EXERCISE ITS CONSTITUTIONAL POWER TO IMPEACH

RICHARD M. NIXON

PRESIDENT OF THE UNITED STATES OF AMERICA

Book III

POLITICAL CONTRIBUTIONS BY MILK PRODUCERS
COOPERATIVES: THE 1971 MILK PRICE
SUPPORT DECISION



MAY-JUNE 1974

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COUNSEL TO THE PRESIDENT

JAMES D. ST. CLAIR, *Special Counsel to the President*

JOHN A. MCCAHERILL, *Assistant Special Counsel*

MALCOLM J. HOWARD, *Assistant Special Counsel*

6

FOREWORD

By Hon. Peter W. Rodino, Jr., Chairman
Committee on the Judiciary

On February 6, 1974, the House of Representatives adopted by a vote of 410-4 the following House Resolution 803:

RESOLVED, That the Committee on the Judiciary acting as a whole or by any subcommittee thereof appointed by the Chairman for the purposes hereof and in accordance with the Rules of the Committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

On May 9, 1974, as Chairman of the Committee on the Judiciary, I convened the Committee for hearings to review the results of the Impeachment Inquiry staff's investigation. The hearings were convened pursuant to the Committee's Impeachment Inquiry Procedures adopted on May 2, 1974.

These Procedures provided that President Nixon should be afforded the opportunity to have his counsel present throughout the hearings and to receive a copy of the statement of information and related documents and other evidentiary material at the time that those materials were furnished to the members.


Mr. James D. St. Clair, Special Counsel to the President, was present throughout the initial presentation by the Impeachment Inquiry staff. Following the completion of the initial presentation, the Committee resolved, in accordance with its Procedures, to invite the President's counsel to respond in writing to the Committee's initial evidentiary presentation. The Committee decided that the President's response should be in the manner of the Inquiry staff's initial presentation before the Committee, in accordance with Rule A of the Committee's Impeachment Inquiry Procedures, and should consist of information and evidentiary material, other than the testimony of witnesses, believed by the President's counsel to be pertinent to the inquiry. Counsel for the President was likewise afforded the opportunity to supplement its written response with an oral presentation to the Committee.

President Nixon's response was presented to the Committee on June 27 and June 28.

One notebook was furnished to the members of the Committee relating to the 1971 milk price support decision. In this notebook a statement of information relating to a particular phase of the investigation was immediately followed by supporting evidentiary material which included copies of documents and testimony (much already on the public record) and transcripts of Presidential conversations.

The Committee on the Judiciary is working to follow faithfully its mandate to investigate fully and completely "whether or not sufficient grounds exist" to recommend that the House exercise its constitutional power of impeachment.

Consistent with this mandate, the Committee voted to make public the President's response in the same form and manner as the Inquiry staff's initial presentation.

A handwritten signature in black ink, appearing to read "Peter W. Rodino". The signature is written in a cursive, flowing style with a large initial "P".

July, 1974

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INTRODUCTORY NOTE

The material contained in this volume is presented in two sections. Section 1 contains a statement of information footnoted with citations to evidentiary material. Section 2 contains the same statement of information followed by the supporting material.

Each page of supporting evidence is labeled with the footnote number and a description of the document or the name of the witness testifying. Copies of entire pages of documents and testimony are included, with brackets around the portions pertaining to the statement of information.

In the citation of sources, "SSC" has been used as an abbreviation for the Senate Select Committee on Presidential Campaign Activities.

STATEMENT OF INFORMATION
SUBMITTED ON BEHALF
OF THE PRESIDENT

POLITICAL CONTRIBUTIONS BY
MILK PRODUCERS COOPERATIVES:
THE 1971 MILK PRICE SUPPORT DECISION

1. The President was invited to address the Associated Milk Producers, Inc. (AMPI) annual convention in Chicago in September of 1970. The President was unable to accept the invitation, and Secretary Hardin spoke in his place.

The President placed a courtesy phone call on September 4, 1970 to the General Manager of AMPI, Mr. Harold Nelson. He also spoke with Secretary Hardin who was with Mr. Nelson. During that conversation, the President invited the dairy leaders to meet with him in Washington and to arrange a meeting with dairy leaders at a later date.

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2. Harold S. Nelson and his special assistant, David L. Parr, paid a brief call on the President on September 9, 1970 during a Presidential "Open Hour". During the Open Hour of September 9, 25 other people, in addition to the AMPI representatives, visited the President, including a group to encourage servicemen to exercise their votes, a group of concerned citizens from the State of South Dakota and a contingent of Gold Star Mothers. Mr. Nelson's and Mr. Parr's pictures were taken and the President told them he understood they had had a successful annual meeting and that he would like to attend their next one in 1971. They had what Mr. Parr described as a "very light-veined" discussion of their organization and activities. There is no evidence that campaign contributions were discussed.

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2b Senate Select Committee Executive Session Testimony of David L. Parr, December 21, 1973. pp. 13, 14, 17.	40
2c Deposition of David L. Parr taken December 12, 1972, in <u>Nader</u> v. <u>Butz</u> , (D. D. C. Cir., No. 418-72) pp. 51-54.	43
2d Deposition of Harold S. Nelson taken February 7, 1973 in <u>Nader</u> v. <u>Butz</u> (D. D. C. Cir., No. 148-72) pp. 61-64, 76, 77.....	47

3. Harold S. Nelson and David L. Parr have testified that the figures of 1 million and 2 million were tossed around, not that any specific pledge was made. Mr. Parr testified that the figures were used in a jesting manner.

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3a	Senate Select Committee Executive Session Testimony of Harold S. Nelson, December 18, 1973, pp. 82, 83.....	54
3b	Senate Select Committee Executive Session Testimony of David L. Parr, December 21, 1973, pp. 205, 206.....	56

4. On March 5, 1970, Secretary of Agriculture Hardin requested the President to direct the Tariff Commission to investigate and report on the necessity for import controls on four new dairy products which had been developed to evade import controls previously established on recognized articles of commerce. The Tariff Commission by Report 338 found unanimously that imports of the four products were interfering with the dairy price program and recommended zero quotas for 3 of the items and an annual quota of 100,000 pounds for the fourth.

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4a. Letter dated March 5, 1970, from Secretary Hardin to the President.....	60
4b. United States Tariff Commission Press Release, October 6, 1970.....	65

5. On October 19, 1970 Secretary Hardin recommended that the Tariff Commission's recommendations be implemented. The Task Force on Agriculture Trade of the Council of Economic advisors disagreed with Secretary Hardin and unanimously recommended to the President, on November 7, 1970, that imports of these items should not be cut off. Thus CEA did not forward Secretary Hardin's recommendation to the President. On November 30, 1970, Secretary Hardin in a memo to Bryce N. Harlow, Assistant to the President, again pushed for a zero quota on one of the items.

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5b.	Memorandum, dated November 9, 1970, from Hendrick S. Houthakker to Don Paarlberg.....	73
5c.	Memorandum, dated November 30, 1970, from Secretary Hardin to Bryce N. Harlow.....	74

6. On December 16, 1970, Patrick J. Hillings of the Washington, D. C. law firm of Reeves and Harrison gave Roger Johnson a letter addressed to the President. It requested, on behalf of AMPI, that the Tariff Commission's recommendation of strict import restriction be adopted. The letter referred to contributions to Republican candidates in the 1970 Congressional election and to plans to contribute \$2,000,000 to the re-election campaign. Attached to the letter was an extensive economic and political analysis of dairy import quotas. Roger Johnson referred the matter to H. R. Haldeman. An undated memorandum from John Brown referred it to "J. C.," who was to check with Ehrlichman and Colson regarding whether the letter should be sent to the President. The letter ended up in Charles Colson's safe and Colson criticized Hillings for sending such a letter. Hillings had not intended or expected that the President see it in the first place and does not believe that the President did see it. There is no evidence that the President ever saw it.

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6a.	Routing memorandum from John Brown to J. C. ; Memorandum, dated December 17, 1970, from Roger Johnson to H. R. Haldeman; Letter dated December 16, 1970, from Patrick J. Hillings to the President with attached memorandum. . .	76
6b.	Deposition of Patrick J. Hillings, taken January 15, 1974, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72) pp. 37-42, 50-52,	96
6c.	Memorandum of Senate Select Committee interview with Murray Chotiner on December 7, 1973, and verifying affidavit,	107

7. The President, on December 31, 1970, by Proclamation Number 4026 established quotas totaling in excess of 25,000,000 pounds for three of the products and in excess of 400,000 gallons for the fourth. It had been previously reported to the White House that any modification from the Tariff Commission's recommendation of zero quotas on three items and 100,000 pounds on another would be viewed on the Hill as a "slap in the face" by the dairy people.

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7a.	Proclamation 4026, December 31, 1970, Weekly Compilation of Presidential Documents, January 4, 1971.....	112
7b.	Memorandum dated October 13, 1970, from Dick Burress to John Whitaker.....	115

8. During late 1970 and early 1971 the dairy industry actively sought Congressional support and action in its effort to obtain an increase in the milk price support level.

In February and March of 1971 approximately 100 Senators and Congressmen wrote the Secretary of Agriculture to urge that the support price be increased. Most wanted the price raised to 90 percent of parity. Some asked that the price be raised to at least 85 percent of parity.

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8a Senate Select Committee Executive Session Testimony of Harold S. Nelson, December 18, 1973, pp. 117-120...	118
Letters and telegrams to the Secretary of Agriculture transmitted by the White House to the Judiciary Committee and noted at Book VI, Part 1, Paragraph 19.	

9. Congressional leaders made their views known to Administration officials in several private conversations. Congressman Mills urged Clark MacGregor on at least six occasions in late February and early March to urge the President to raise the support price. Congressman Mills telephoned the Director of the Office of Management and Budget, George Shultz, with the same request. Mr. Shultz sent a memorandum to John Ehrlichman indicating the substance of Congressman Mills request for a rise in the support level.

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9a	Memorandum, dated March 5, 1971, from Clark MacGregor to John Ehrlichman and George Shultz..... 124
9b	Memorandum, dated March 4, 1971, from George Shultz to John Ehrlichman,..... 125

10. Following Secretary Hardins announcement, March 12, 1971, that the support level would not be raised for the 1971-72 marketing year, intense lobbying began. On March 16, 1971, Richard T. Burress reported to John Ehrlichman that the decision had been hit by partisan attacks and that legislation would be introduced which would require that the price support level for milk be raised to 85 percent of parity, that it would have the support of Speaker Carl Albert and Wilbur Mills and that it would likely pass.

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10a	128

11. In the House, 28 separate bills were introduced between March 16th and March 25th to set the support price at a minimum of 85% and a maximum of 90% of parity. 29 Republican and 96 Democratic members introduced or co-sponsored this legislation.

In the Senate, 28 Senators introduced legislation on March 16, 1971, that would have required support levels at a minimum of 85 percent of parity. Of the bill's sponsors, one was a Republican and 27 were Democrats. Three days later, Senator Hubert Humphrey sponsored his own bill seeking higher parity.

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11a	White Paper, The Milk Support Price Decision, January 8, 1974, pp. 14-17,..... 132

12. On March 19, 1971, John Whitaker reported to John Ehrlichman that contrary to a vote count of the previous night, Secretary Hardin is convinced there is a 90 percent chance that an 85 percent of parity support bill will pass Congress and that the President should allow himself to be won over to an increase to 85 percent of parity.

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12a	Memorandum, dated March 19, 1971, from John C. Whitaker to John D. Ehrlichman..... 138

13. On the morning of March 23, 1971, the President called Secretary of the Treasury Connally. The primary subject of the conversation was an unrelated matter. The latter part of their conversation touched on the fact that the President would be meeting later that morning with the dairymen, the potential effect of a support level increase on consumer prices and that the President wanted a decision that day.

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13 a. Secretary Connally's log, March 23, 1971.....	140
Tape recording of President's statement during telephone conversation between the President and Secretary John Connally, March 23, 1971.....	141
13 b. President's log of contacts with Secretary Connally, March 11, 1971 to May 11, 1971.....	142

14. The meeting had been planned and scheduled some months in advance. The President originally invited the dairy leaders during a courtesy telephone call on September 4, 1970, and a ~~courtesy~~ meeting on September 9, 1970. Specific arrangements were begun in January, 1971. The Department of Agriculture obtained a list of the officers and representatives of the major dairy industry groups. A list of potential invitees was forwarded to the White House by Secretary Hardin on January 26, 1971, with his recommendation that a meeting be scheduled. On February 25, 1971, Secretary Hardin was informed that the President had approved the meeting for 10:30 a.m., March 23, 1970.



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14a	Memorandum, dated January 26, 1971, from Secretary Hardin to H. R. Haldeman..... 144
14b	Deposition of David L. Parr taken December 12, 1972 in <u>Nader</u> v. <u>Butz</u> , (D. D. C. Civ. No. 418-72) pp. 51-54. 145
14c	Letter, dated February 25, 1971, from Dwight L. Chapin to Secretary Hardin..... 149

15. The President opened the meeting by thanking the dairy leaders for their non-partisan support of Administration policies.

Secretary Hardin then briefly outlined the problems facing the dairymen and asked for their views. The remainder of the meeting was taken up by the dairy leaders pleading their case for a higher support price and discussion among the President, Administration officials and the dairymen regarding the economics of a milk price support increase. No conclusions were reached about the support price. Campaign contributions were not mentioned.

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Tape recording of meeting among the President and dairy representatives, March 23, 1971,.....	152

16. On the afternoon of March 23, 1971, the President held a meeting with seven Administration officials to discuss the dairy price support problem. The meeting opened with Secretary Connally, at the President's request, outlining the situation. He pointed out that politically the President was going to have to be strong in rural America and that the farmers had many problems and that this was one of the few which the President could do anything about; second, the major dairy groups represent some 100,000 dairymen who are being tapped, labor union style, to amass an enormous amount of money which they were going to use in various Congressional and Senatorial races all over the country to the President's political detriment. Secretary Connally also advised the President twice that he believed a support level increase to be economically sound.

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Tape recording of meeting among the President,
Secretary Hardin, Secretary Connally, John
Ehrlichman, George Shultz, John Whitaker,
J. Phil Campbell and Donald Rice, March 23, 1971.... 154

17. The discussion then centered on the pending legislation which would require a support level increase. The President stated that he believed such a bill would pass. Secretary Hardin expressed the view that a bill forcing an increase was almost certain to pass and told the President that 150 names were on the bill and that Speaker Carl Albert supported it. Secretary Connally stated that Wilbur Mills also supported it and that it would pass the House beyond any question, Secretary Connally said the move would gain liberal support as it would embarrass the President.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice	
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18. Vetoing such a bill was then discussed. Connally said the dairymen were arguing on Capital Hill such a veto would cost the President Missouri, Wisconsin, South Dakota, Ohio, Kentucky and Iowa in the 1972 election. Hardin said the President would not have any choice but to sign it.

The President then made the judgment that Congress was going to pass the bill and that he could not veto it. The President then adopted a proposal by Connally that a trade-off be made, giving the dairymen an increase in 1971 in return for a promise not to seek an increase in 1972.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971,	158

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE SECOND PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

19. Secretary Hardin then raised the question of the Administration getting credit for the increase. Secretary Connally suggested rather that first the Speaker, Carl Albert, Congressman Wilbur Mills and others be contacted in order to obtain their support, in return, on other legislation. The problem was discussed of how to keep the dairymen from learning of the decision until Congressmen Albert and Mills could be approached but still obtain a promise from the dairymen not to push for an increase in 1972.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971.....	160

20. At the end of the meeting the President outlined who was to contact Speaker Albert and Congressman Mills and that he understood J. Phil Campbell would contact the dairymen about not seeking an increase in 1972.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971,..... 162

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

21. J. Phil Campbell called Harold Nelson after the meeting and asked him if the Administration did raise the support level would he and the other dairymen "get off our backs" and not ask for more increases, to which Mr. Nelson agreed. Campbell did not tell him of the meeting with the President; did not discuss anything else; and did not tell him not to boycott a Republican fund raising dinner.

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21a Senate Select Committee Executive Session Testimony of J. Phil Campbell, May 31, 1974, pp. 60, 61, 64	164

22. Murray M. Chotiner stated in his deposition he did not know in advance of the decision to increase support levels, did not discuss campaign contributions in seeking a support level increase on behalf of the dairymen and did not talk to the dairymen in the context of contributions in return for favorable action.

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22a	Deposition of Murray M. Chotiner taken December 28, 1972, in <u>Nader v. Butz</u> , (D.D.C. 418-72) pp. 10, 11, 21-24.....	168

23. Herbert W. Kalmbach has testified that as of March 25, 1971 he was unaware of any price support matter and that he does not recall any suggestion or indirect suggestion of a relationship between campaign contributions and governmental actions affecting the dairy industry by members of the dairy industry or their representatives or members of the White House staff. Harold S. Nelson, David L. Parr and Marion Edwyn Harrison have all testified to the effect that there was no quid pro quo relationship between a milk price support increase and campaign contributions.

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23a	Depositions of Herbert W. Kalmbach, taken December 13, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 55, 56, 110-112,..... 176
23b	Deposition of Herbert W. Kalmbach taken April 30, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 10-15, 19-22, 46..... 181
23c	Deposition of Harold S. Nelson taken February 7, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 76, 77... 192
23d	Deposition of David L. Parr taken December 12, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 418-72), pp. 152, 153,..... 194
23e	Deposition of Marion Edwyn Harrison taken December 27, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 418-72), pp. 113-114,..... 196

24. Economic and traditional political considerations were the only basis of the decision to increase the price support level. Increased costs and other economic factors raised by dairymen, the political pressure which precluded a veto of a bill which would set parity at a minimum of 85% and possibly as high as 90%, the potential threat of production controls which would decrease the milk supply and the need for an increased supply of cheese were factors which caused Secretary Hardin to change his earlier decision.

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24a	Affidavit of Clifford M. Hardin, filed March 19, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72)..... 200
24b	CCC Docket MCP 98a, Amendment 1 and attachments.. 208

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STATEMENT OF INFORMATION
AND
SUPPORTING EVIDENCE
SUBMITTED ON BEHALF
OF THE PRESIDENT

POLITICAL CONTRIBUTIONS BY
MILK PRODUCERS COOPERATIVES:
THE 1971 MILK PRICE SUPPORT DECISION

1. The President was invited to address the Associated Milk Producers, Inc. (AMPI) annual convention in Chicago in September of 1970. The President was unable to accept the invitation, and Secretary Hardin spoke in his place.

The President placed a courtesy phone call on September 4, 1970 to the General Manager of AMPI, Mr. Harold Nelson. He also spoke with Secretary Hardin who was with Mr. Nelson. During that conversation, the President invited the dairy leaders to meet with him in Washington and to arrange a meeting with dairy leaders at a later date.

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(Retyped from illegible copy)

June 29, 1970

To: Hon. Bryce N. Harlow
Counsellor to the President
The White House

As I discussed with you by telephone, the dairy leaders of the United States have verbally requested two or three times that the President address the dairy farmers at one of their large meetings with six to ten thousand in attendance. This would be a very friendly audience as the dairymen are highly pleased with actions taken by this Administration which involve their welfare.

The President could speak briefly -- four or five minutes -- about dairymen's welfare and his concern with the balance of his remarks directed generally across the board on all American agriculture.

Although the dairy, beef cattle and other commodity group leaders are appreciative of many favorable actions taken for their welfare and they make every effort to communicate with their farmer members on the land, it is impossible to convey the message that a Presidential appearance before their group would take to them. As I stated on the phone, the dairymen would give the President the same type reception accorded to him by the Jaycees in the St. Louis meeting.

/s/

J. PHIL CAMPBELL
Under Secretary

CC: Charles Colson
Special Counsel to the President
JPCampbell:chb 6/29/70

June 29, 1970

To: Hon. Bryce W. Harlow
Counselor to the President
The White House

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J. PHIL CAMPBELL
Under Secretary

CC: Charles Colson
Special Counsel to the President
JPCampbell:chb 6/29/70

January 26, 1971

SECRETARY OF AGRICULTURE
RECEIVED
SECURITY RECORDS & COMM. DIV.

TO: H. R. Halderan
Assistant to the President
The White House

SUBJECT: Meeting with President and Leaders of Dairy Industry

On September 4, 1970, I addressed 25,000 members of Associated Milk Producers, Inc., in Chicago, Illinois. At that time, President Nixon talked by telephone with me and with Harold Nelson, President of AMPI, and extended an invitation to Mr. Nelson for the key leaders of that group to meet with him in the White House.

At my suggestion, Marion Harrison and Pat Hillings, as attorneys for AMPI, have submitted the enclosed list of names for such a meeting. I recommend the President invite them for a meeting at the earliest convenient time.

1/21
CLIFFORD M. HARDIN
Secretary

Enclosure

SEC:DEBrock:hc x2631 1-25-71

BROUGHT FORWARD

Stamp: [Illegible]

1 Q Okay. Can you tell us how the March 23rd, 1971 meeting
2 with the President was set up?

3 A I believe it was set up by -- the direct answer to your
4 question is "No, I can't." If you want me to give you
5 an opinion to the best of my recollection --

6 Q Let me describe again what testimony already given --
7 I think this time by Mr. Parr -- indicates. Mr. Parr
8 testified that to his recollection you had invited
9 President Nixon to address the 1970 annual meeting --

10 A That's correct.

11 Q -- of AMPI, and that while you were holding -- He could
12 not attend, but that he telephoned you in the course of
13 that meeting.

14 A He telephoned me just as the meeting was being convened.

15 Q What was the substance of that telephone --

16 A He was expressing his regret at being unable to attend,
17 expressing his awareness of the importance of agriculture
18 to the economy of the United States and to the health
19 and well-being and that sort of thing. You know,
20 reassuring me that -- and asking me to tell the
21 convention that he was concerned about the well-being of
22 agriculture producers, and telling me also that he wanted
23 to meet with us -- no specific time was set -- and that
24 he would discuss such a meeting with Secretary Hardin,
25 I believe he said. And as I recall, Secretary Hardin was

1 at the meeting.

2 And he asked me to tell the convention -- I
3 don't know; maybe I shouldn't say he asked me to. "He
4 authorized me to" may be better. I don't want to put it
5 in the context of the President was asking me to do that.
6 But to express to them his regrets at being unable to
7 attend and the sentiments that I've just described.

8 Q And then I think Mr. Parr's testimony continues. He
9 received a call, he believes, from you saying that you
10 were to fly to Washington -- and this was just a few days
11 after that meeting and telephone call -- you were to fly
12 to Washington to meet with the President. Is that
13 correct?

14 A Well, I don't remember. We did go to meet the President.
15 It seems to me that it was relatively soon after that
16 convention, but I can't tell you what date. And I don't
17 recall who it was who called me to notify me that, you
18 know, the President would see us.

19 Q You don't remember whether a call came from someone on the
20 President's staff?

21 A Well, no, I don't. I assume that it did, though. Any
22 time you're going to see the President you usually get a
23 call and -- But I don't -- it's usually from someone you
24 don't know.

25 Q And you did go and see the President?

2. Harold S. Nelson and his special assistant, David L. Parr, paid a brief call on the President on September 9, 1970 during a Presidential "Open Hour". During the Open Hour of September 9, 25 other people, in addition to the AMPI representatives, visited the President, including a group to encourage servicemen to exercise their votes, a group of concerned citizens from the State of South Dakota and a contingent of Gold Star Mothers. Mr. Nelson's and Mr. Parr's pictures were taken and the President told them he understood they had had a successful annual meeting and that he would like to attend their next one in 1971. They had what Mr. Parr described as a "very light-veined" discussion of their organization and activities. There is no evidence that campaign contributions were discussed.

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✓

THE WHITE HOUSE

WASHINGTON

OPEN HOUR

Wednesday, September 9, 1970

12:00 Noon

The President's Office

THE PRESIDENT:

Event No. 1

12:00 p. m. Dr. Kevin McCann
to
12:10 p. m.

Dr. Kevin McCann, who is an old friend of yours, will be brought into your office for a brief visit with you. He will want to discuss with you his decision to take over the Presidency of the Freedom Foundation.

Gift: RN Mint Medallion

* * * * *

Event No. 2

12:10 p. m. Admiral E. P. Holmes, USN
to Supreme Allied Commander (NATO)
12:15 p. m. and
 Commander in Chief, Atlantic (US)
 General James D. Hughes

General Hughes will escort Admiral Holmes into your office for a brief visit with you. The purpose of the Admiral's visit with you is to pay a farewell call since he is retiring in September.

Gift: Presidential Tie Clasp

* * * * *

Event No. 3

12:15 p.m. Miss Cathy S. Campbell
to Alex Butterfield
12:20 p.m.

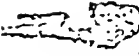
Mr. Butterfield will bring Cathy Campbell into your office for a handshake and a photograph with you. Miss Campbell has been working in the Security Files Section in the White House but is resigning her position to return to College to obtain a second Bachelor's Degree to enhance her FSO opportunities.



Gift: Presidential Bow Pin

* * * * *

Event No. 4



12:20 p.m. Seaman Patricia Sargent
to SP 5 Brenda Davis
12:25 p.m. Sgt. Beverly Kilby
Sgt. Susan West
Lt. Col. John R. Sayre
Major Leonard Rice
Major Jack Brennan

Major Brennan will escort the above group into your office. The Misses Sargent, Davis, Kilby and West hold the title of Miss Milit Voters and are representing their respective Services in an annual effort to encourage military personnel to exercise their voting responsibility by voting absentee.

Gifts: Men: Presidential Key Chains
Women: Presidential Bow Pins

* * * * *

Event No. 5

12:25 p.m. Harold S. Nelson, General Manager
to ~~Associated Milk Producers, Inc.~~
12:35 p.m. David L. Parr, Special Assistant to General Manager
Mr. Charles Colson

Mr. Colson will escort Messrs. Nelson and Parr into your office for a handshake and a photograph with you. The Associated Milk Producers organization was formed in November of 1969 as the result of the merger of various other farm groups.

Gifts: Presidential Key Chains

* See separate by
paper from Colson
(esp. contribution)

* * * * *

Event No. 6

12:35 p.m. Mr. and Mrs. Charles H. Thomas
to Dana Thomas
12:40 p.m.

Mr. and Mrs. Thomas and their six-year-old daughter Dana will be brought into your office for a handshake and a photograph with you. Mr. Thomas was present at a previous Open Hour and was invited by you to return with his daughter at some future date.

Gifts: Mr. Thomas: Presidential Key Chain
Mrs. Thomas: Presidential Bow Pin
Dana Thomas: Apollo View-Master

* * * * *

Event No. 7

12:30 p. m. Mr. Lynn Culver
to Mr. Neil Lewis
12:45 p. m. Mr. Burl Bohlen
Mr. Merlin Bulch
Mr. Earl Nixon
Mr. Robert Ruddy (Sen. Mundt's Office)

The above-named group represents the "Concerned Citizens of South Dakota" and will be brought into your office to present you with petitions of support concerning your position in Southeast Asia. They have collected over 20,000 signatures.

Gifts: Presidential Tie Clasps

* * * * *

Event No. 8

12:45 p. m. Mrs. Marie Kittridge, Legislative Chairman, Gold Star Mothers, Inc.
12:55 p. m. Mrs. Elva Newman, Washington Representative
Mrs. Bettyann Funk

These ladies represent the organization that sought court action to prohibit the New Move from placing the names of their deceased sons on placards during the demonstrations last November. During that November week-end they held numerous press conferences and receive excellent publicity that was favorable to us. You wrote Mrs. Newman and Mrs. Funk personal letters of appreciation.

Gifts: Presidential Bow Pins

* * * * *

NOTE: Ollie Atkins will be present to photograph each of these events.


Stephen Bull

David Parr testimony, SSC
Executive Session,
December 21, 1973, 13-14, 17

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Mr. Parr. I believe Mr. Colson was there.

Mr. Weitz. Anyone else?

Mr. Cashen?

Mr. Parr. No.

Mr. Weitz. Did Mr. Colson bring you in to meet the President?

Mr. Parr. I believe that would be correct.

Mr. Weitz. This was the first time that you met with the President?

Mr. Parr. President Nixon, yes.

Mr. Weitz. Yes?

Mr. Parr. (Nods in the affirmative.)

Mr. Weitz. What discussed?

Mr. Parr. Well, Mr. Nixon -- do you mean to tell you the discussion?

Mr. Weitz. Yes. Who said what?

Mr. Parr. Well, Mr. Nixon said -- the first thing we did was got our picture taken with him.

Mr. Weitz. Just the three of you?

Mr. Parr. Yes.

Mr. Weitz. Not Mr. Colson?

Mr. Parr. No.

And the second thing that happened, he got on his yellow cabinet [sic] and we all sat down and he said, you people must have real good organization. I have heard some very good things

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David Parr testimony, SSC
Executive Session,
December 21, 1973, 13-14, 17

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14

about it. I know that you tried every way in the world to get me to come, and I understand that you had a successful meeting. And when is your next one? I want to be there. I believe was the right word.

And I believe we told him that our next one would of course be 1971, and that we did not really want him to come.

Then he said, well, I do not understand that.

We said, we want you to come in 1972, and we will have it in Los Angeles, and we will have it in the Coliseum and we will have 100,000 people. And if you don't come we'll get the Democrat.

And that's when he said, no, I want to come in '71.

Now, we were sort of joshing with him then.

Mr. Weitz. In fact, you hoped he would come to your '71 convention, did you not?

Mr. Parr. Well --

Mr. Weitz. You would have taken him any time, would you not have?

Mr. Parr. Certainly. Oh, certainly.

And in '72 we could have had quite a number of people at our meeting.

Mr. Weitz. You mentioned that because you were trying to impress him with the growth of the organization?

Mr. Parr. Yes.

Of course, we were not thinking about California, really,

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David Parr testimony, SSC
Executive Session,
December 21, 1973, 13-14, 17

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17

we want you to know we want to support you?

Mr. Parr. Yes, I am sure we did that, because we faced up to the facts that he was very popular out in the Midwest.

Mr. Weitz. Did you discuss any problems or substantive policies with him, dairy policies, dairy problems?

Mr. Parr. Well, I think we were there about 15 or 20 minutes, and we tried to give him a bird's eye view of the cooperative, of what milk was. And I just do not remember all of the discussion we had. In other words, it was a very light-veined type of discussion. It was the first time we had ever seen him, the first time I had ever seen him.

Mr. Weitz. He appeared knowledgeable, though, about your organization and activities?

Mr. Parr. He complimented us on the type of organization we had.

Mr. Weitz. So apparently he had been informed of what you were doing and what the organization was?

Mr. Parr. Yes, sir. I guess so.

Mr. Weitz. After that meeting did you have any meetings with Mr. Colson in the fall, by the end of the year, about setting up a meeting with the President and other dairy leaders?

Mr. Parr. I have forgotten how we proceeded to this when I first knew we were going to have a meeting with the President. But it seems to me it was sometime in January that -- It seems like to me that Mr. Harrison visited with the Administration

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Q I understand that.

Especially with all those dairy farmers in town at the same time?

A I don't know about that.

Q Did you attend the meeting with the President at the White House on March 23, 1971?

A Yes.

MR. WILSON: You want to take a five-minute recess?

MR. DOBROVIR: Yes.

(Short recess.)

MR. DOBROVIR: On the record.

BY MR. DOBROVIR:

Q When we recessed, I had just asked you about a meeting at the White House with the President on March 23, 1971.

How was that meeting arranged?

A In 1970, ANPI was having an annual meeting in Chicago.

There were efforts to try to persuade the President to come to that meeting. He didn't come.

He did talk, as I understand it -- I wasn't at the meeting in Chicago -- he did talk, as I understand it, with Mr. Nelson in Chicago, and said the kind of thing that he

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was sorry he couldn't come.

I don't know what he said.

About three days later, well, over the weekend sometime, I got a call from Mr. Nelson.

Q You got a call from Mr. Nelson?

A I believe from Mr. Nelson, saying that -- maybe he told Mr. Nelson. I don't know how that ran.

Anyhow, they were to meet with the President about three days after the annual meeting. This must have been in September of '70.

At that time, the President -- a lot of people had urged him to come, and he had gotten the impression that it was a good meeting, a large, well attended meeting, and he wanted to know when our next one was and that he would make every effort to try to come to the next one.

When was it? And he would like to meet with other people in the dairy industry and to remind Secretary Hardin, just to keep in mind, that he wanted to meet in early 1971 with other people.

So, I don't know when it was set, Mr. Dobrovir, exactly, but that is the first mention I heard of it.

Q Were you told this by Mr. Nelson?

A No.

I was told this by the President.

Q By the President.

You spoke to him personally?

A Mr. Nelson and I were there.

Q This was after the Chicago meeting?

A The 1970 annual meeting of AMPI.

Q You went to Washington?

A Came to Washington.

Q And expressly for the purpose of seeing the President?

A Yes.

Q And how did that occasion come about?

A I said I don't know. I don't know.

As I was saying, I wasn't in Chicago, so I don't know how the meeting got arranged.

He did talk, as I understand it, to Mr. Nelson from some place, wherever he was, while the meeting was going on.

Q So you and Mr. Nelson flew to Washington to meet with the President, and now when you met with the President at that time, did you discuss anything else besides the question of his setting up a meeting?

A I just remember he got his yellow pad and started

saying, "When is that meeting?"

I was impressed with that.

Q How long did your meeting with him at that time last?

A I don't remember.

Q You don't remember what other subjects were discussed?

A The only thing that impressed me was that he was very complimentary of what he had heard about our annual meeting. That is what we had just had.

And he expressed an interest in meeting some of our people, which we thought was good, and it sounded like he wanted to come to our next meeting, which he ultimately did.

Q Was that the only thing that you talked with the President about at that time?

A I am sure we talked to him about the plight of the dairy farmer because we never missed an opportunity to talk to anybody about that, but I don't remember anything specifically.

Q Do you meet with the President often?

A No.

I don't know of anybody that meets with the President often.

1 Q Okay. Can you tell us how the March 23rd, 1971 meeting
2 with the President was set up?

3 A I believe it was set up by -- the direct answer to your
4 question is "No, I can't." If you want me to give you
5 an opinion to the best of my recollection --

6 Q Let me describe again what testimony already given --
7 I think this time by Mr. Parr -- indicates. Mr. Parr
8 testified that to his recollection you had invited
9 President Nixon to address the 1970 annual meeting.--

10 A That's correct.

11 Q -- of AMPI, and that while you were holding -- He could
12 not attend, but that he telephoned you in the course of
13 that meeting.

14 A He telephoned me just as the meeting was being convened.

15 Q What was the substance of that telephone --

16 A He was expressing his regret at being unable to attend,
17 expressing his awareness of the importance of agriculture
18 to the economy of the United States and to the health
19 and well-being and that sort of thing. You know,
20 reassuring me that -- and asking me to tell the
21 convention that he was concerned about the well-being of
22 agriculture producers, and telling me also that he wanted
23 to meet with us -- no specific time was set -- and that
24 he would discuss such a meeting with Secretary Hardin,
25 I believe he said. And as I recall, Secretary Hardin was

1 at the meeting.

2 And he asked me to tell the convention -- I
3 don't know; maybe I shouldn't say he asked me to. "He
4 authorized me to" may be better. I don't want to put it
5 in the context of the President was asking me to do that.
6 But to express to them his regrets at being unable to
7 attend and the sentiments that I've just described.

8 Q And then I think Mr. Parr's testimony continues. He
9 received a call, he believes, from you saying that you
10 were to fly to Washington -- and this was just a few days
11 after that meeting and telephone call -- you were to fly
12 to Washington to meet with the President. Is that
13 correct?

14 A Well, I don't remember. We did go to meet the President.
15 It seems to me that it was relatively soon after that
16 convention, but I can't tell you what date. And I don't
17 recall who it was who called me to notify me that, you
18 know, the President would see us.

19 Q You don't remember whether a call came from someone on the
20 President's staff?

21 A Well, no, I don't. I assume that it did, though. Any
22 time you're going to see the President you usually get a
23 call and -- But I don't -- it's usually from someone you
24 don't know.

25 Q And you did go and see the President?

1 A We did.

2 Q And who attended the meeting at that time?

3 A As I recall at that time it was just Mr. Parr and me.

4 Q And who was --

5 A Unless you, you know, can refresh my memory on someone
6 else. I don't believe there was anyone else there.

7 Q Was there anyone from the President's staff there?

8 A I'm sure there was, but I don't recall who. And there
9 may not have been, but --

10 Q And what happened at that meeting?

11 A He once again talked about how he regretted that he ---
12 couldn't attend the meeting. We talked to him about and
13 invited him to address the next meeting -- the next annual
14 meeting, which he did.

15 Q And that was the entire --

16 A This was a very brief meeting. I remember he kidded Dave
17 Parr about his build as a former Tennessee football
18 player and, you know, talked about his interest in sports
19 and that sort of thing. That seems to me that the main
20 point of discussion at that time was that we would like
21 for him to attend our next -- and speak at our next annual
22 meeting.

23 Q And was there any discussion at that time of a meeting
24 that would turn out to be the March meeting?

25 A I don't have an independent recollection but I would say

1 it would be unusual if we didn't seize that opportunity
2 to tell him that we'd like at his convenience to have
3 some dairy leaders in to talk with him.

4 Q Now, when did you first learn that this March meeting was
5 going to take place?

6 A You mean the one -- which March meeting?

7 Q The March 23rd meeting at the White House.

8 A It seems to me it was just very shortly before the meeting,
9 maybe -- I don't really know. I can't recall how I heard
10 or -- it seems to me maybe it was just twenty-four hours
11 or forty-eight hours before the meeting. It may have
12 been longer, but not a whole lot of notice, as I recall.
13 Now, I could be wrong about that.

14 Q Had anything about such a meeting been in the wind before
15 that?

16 A Oh, there was always something about such a meeting in the
17 wind before that, and let me tell you why. You know that
18 those who are opposing your views have access to the
19 President and are pressing their views on the President.
20 You always want an opportunity to be heard because if
21 you're convinced of the correctness of your position,
22 see, you have confidence that if you can be heard that
23 you can refute, especially if those who are of opposing
24 views are present. I was always confident that if we
25 could get the opposing views exposed in our presence, we

CROSS-EXAMINATION

By Mr. Goldbloom:

Q I have a couple of questions, Mr. Nelson. During the course of your various discussions with members of Congress or Congressional staff members or the President or members of the White House staff or with whomever you may have come in contact or officials of the Department of Agriculture in connection with your efforts to obtain a satisfactory -- that is, satisfactory to your interests -- result concerning the price support level were there discussions to the effect that the making of political contributions by the agricultural trust would have an effect or an impact upon the decisions to be reached by the Government as to the price support level?

A Absolutely not.

Q Did anyone intimate to you that the making of political contributions, or for that matter, the failure to make political contributions, would have any kind of effect on such a determination?

A No, they did not.

Q And in the course of your discussions did you or others representing your interests suggest that the making of political contributions might have a beneficial result?

A No, absolutely not.

MR. GOLDBLOOM: I have no further questions.

1 A I'd just like to say this: I take it that what you're
2 asking me -- the essence of what you were asking me is,
3 was there a quid pro quo.

4 Q Exactly.

5 A There's never been a quid pro quo in my total experience.

6 CROSS-EXAMINATION

7 By Mr. Barrera:

8 Q Just by way of clarifying the people that may have been
9 present at the meeting, which you've already given some
10 names, both as to those that may have been with the
11 President's staff and those that ~~may have been with the~~
12 farm group, in number, would you hazard a guess as to how
13 many people may have been there all told?

14 A As I recall, the meeting was in the Cabinet Room and the
15 Cabinet table was full -- the seats at the Cabinet table
16 -- and chairs were arranged in back of the President with
17 people occupying them. So I would say -- that's very hard
18 to figure. I would say if you started counting, though,
19 a total of thirty-five to fifty people in there. I'd
20 say probably nearer thirty-five. I could be wrong on
21 that, too. I'm sure they know how many were in there,
22 but it was a goodly number of people.

23 Q The \$8500.00 loan to Mid-America, do I recall your having
24 said that you did or did not recall the possibility of
the loan?

3. Harold S. Nelson and David L. Parr have testified that the figures of 1 million and 2 million were tossed around, not that any specific pledge was made. Mr. Parr testified that the figures were used in a jesting manner.

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3a Senate Select Committee Executive Session Testimony of Harold S. Nelson, December 18, 1973, pp. 82, 83.....	54
3b Senate Select Committee Executive Session Testimony of David L. Parr, December 21, 1973, pp. 205, 206.....	56

Harold Nelson testimony, SSC
Executive Session, December 18, 1973, 82, 83,

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Mr. Weitz. Several hundred committees?

Mr. Nelson. Yes.

Mr. Weitz. What total amount did you contemplate contributing, or did you tell them you would contribute?

Mr. Nelson. Well, we did not tell them any specific amounts at various times, a million dollars, two million dollars or even more money was discussed. And had they given us the names of the committees, they could have gotten much more money from us.

Mr. Weitz. When you say a million, two million dollars or more was discussed at various times, who discussed it? Did you discuss it with some individuals or did you --

Mr. Nelson. There would just be amounts that would be thrown out about the --

Mr. Weitz. Yes. Did you hear those amounts discussed, or did you yourself discuss those amounts?

Mr. Nelson. Ordinarily, I would not be the one to mention those amounts.

Mr. Weitz. Who did?

Mr. Nelson. Mr. Parr.

Mr. Weitz. In your presence?

Mr. Nelson. He has mentioned those amounts in my presence, yes.

Mr. Weitz. Who else was present at any of the times that Mr. Parr mentioned those amounts?

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Mr. Nelson. Mr. Colson.

Mr. Weitz. Mr. Colson. Was it at this meeting in 1970, for example?

Mr. Nelson. I do not recall it being at that meeting. Everybody knew that they had demonstrated their -- to me, it is an unfathomable thing -- inability to come with a list of committees.

Mr. Weitz. Well, how early -- was this the first meetings when you raised the first possibility of committees being organized, or had you asked for these committees earlier?

Mr. Nelson. We had asked for these committees earlier.

Mr. Weitz. How much earlier?

Mr. Nelson. I cannot tell you when it would be.

Mr. Weitz. 1969?

Mr. Nelson. No. I do not recall in '69, but among the first meetings we had with Mr. Colson we asked for committees.

Mr. Weitz. When was the first time you met with Mr. Colson?

Mr. Nelson. Let us say, we may have met with him in '69, but if not, it was certainly early '70.

Mr. Weitz. And at one of the first or early meetings, you mentioned that you wanted to make contributions and wanted the names of committees?

Mr. Nelson. Yes, sir. We sure did.

Mr. Weitz. Did you mention the contribution in 1969, the

David Parr Testimony, SSC
Executive Session, Decem-
ber 21, 1973, 205-206

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Mr. Sanders. Yes, but as I recall your previous testimony, you put it in the context of in discussion of this, and really my question is, did you ever make such representation?

Mr. Parr. I do not recall anything specifically. No, sir.

Mr. Sanders. Did you ever say that dairy people could give more than labor organizations?

Mr. Parr. I would have loved to have said that.

Mr. Sanders. Do you think you might have?

Mr. Parr. I don't know.

Mr. Sanders. Well, what I wanted to ask you is, when do you think you might first have said something to that affect. But I suppose your answer is that you do not recall that you ever really said it?

Mr. Parr. Well, I want to be fair with everybody, and if I could shed any light on it I would sure try to do it.

Mr. Sanders. Please try to understand. I am not asking you if you promised that to the Administration or the re-election, or that you promised to give that in return for a certain favor. I am just asking if you made a general statement that this much money would be available.

Mr. Parr. I just remember a discussion of about a million dollars, and then somebody said two million dollars, and that's the --

Mr. Sanders. Would the first time that that occurred have been in Colson's office?

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Mr. Parr. Do you mean discussions of that type of nature?

Mr. Sanders. Yes.

Mr. Parr. I just don't know.

Mr. Sanders. Can you recall who participated in such a discussion?

Mr. Parr. No, sir. I do not. We were --

Mr. Gibson. Can we go off the record just a second and take a break?

Mr. Sanders. (Nods in the affirmative.)

(Discussion off the record.)

Mr. Sanders. Back on the record.

Mr. Parr. In relation to this one million and two million, I recall that it was said, discussed, and as I recall, it was sort of in a jesting manner. That is the best recollection I can have.

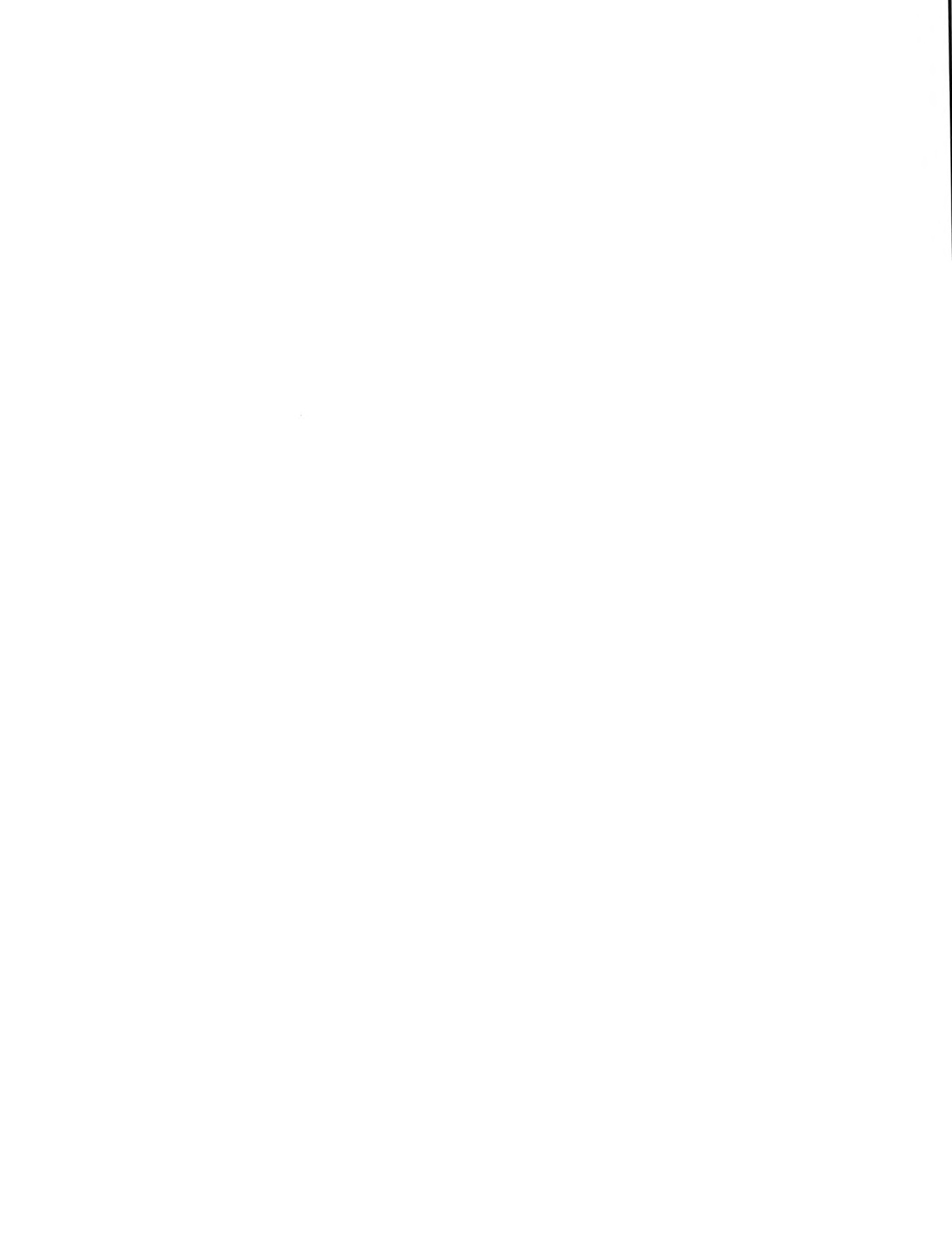
I have testified that one was mentioned, and then I believe Mr. Colson said, this is a two million dollar package, or some words like that.

Mr. Sanders. The obvious implication of your answer is that it occurred in Colson's office?

Mr. Parr. Yes, sir.

Mr. Sanders. What I was wondering is, is this the first time to your recollection that contributions of that magnitude had been discussed in your presence?

Mr. Parr. We were constantly discussing what we expected



4. On March 5, 1970, Secretary of Agriculture Hardin requested the President to direct the Tariff Commission to investigate and report on the necessity for import controls on four new dairy products which had been developed to evade import controls previously established on recognized articles of commerce. The Tariff Commission by Report 338 found unanimously that imports of the four products were interfering with the dairy price program and recommended zero quotas for 3 of the items and an annual quota of 100,000 pounds for the fourth.

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4a.	Letter dated March 5, 1970, from Secretary Hardin to the President.....	60
4b.	United States Tariff Commission Press Release, October 6, 1970.....	65

March 5, 1970

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

This is to advise you that I have reason to believe that certain dairy products are being imported, and are practically certain to continue to be imported, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for milk and butterfat undertaken by the Department of Agriculture, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat. I have reference to ice cream, chocolate crumb with a fat content of 5.5 percent or less, animal feeds containing milk or milk derivatives, and certain cheese containing 0.5 percent or less by weight of butterfat.

These articles are specifically described in the enclosed statement of recommendations which sets forth the basis for my belief. Also enclosed for your consideration is a draft letter from you to the Chairman, United States Tariff Commission.

All of the aforementioned articles are products of recent appearance in international trade which have been specifically developed and promoted to evade import controls established on recognized articles of commerce. These evasions should be stopped before they grow to disruptive proportions and cause unnecessary and burdensome Federal expenditures. For this reason, I urge that you ask the Tariff Commission to initiate and complete its investigation as soon as possible.

Respectfully,

S/ Clifford M. Hardin

CLIFFORD M. HARDIN
Secretary

Enclosures

RECOMMENDATIONS FOR STRENGTHENING UNITED STATES DAIRY IMPORT CONTROLS

The United States controls imports of certain dairy products by means of import quotas established pursuant to Section 22 of the Agricultural Adjustment Act, as amended. Such quotas are intended to prevent imports from rendering ineffective, or tending to render ineffective, or materially interfering with, the price support program for milk and butterfat undertaken by the Department of Agriculture, or from reducing substantially the amount of products processed in the United States from domestic milk and butterfat.

Since their inception in 1953, these controls have been used with restraint in an effort to maintain a proper balance between freedom to trade and the necessary protection of our dairy price support program and, through it, our dairy economy. But, because the price incentives are very strong, both foreign suppliers and the import trade have sought to circumvent and evade the quotas whenever possible. It is such a situation which now requires action.

World supplies of dairy products are in surplus to commercial market demand and increased further in 1969. Milk going to fluid use continues to decline while the output of manufactured dairy products continues to increase. These surpluses are seeking outlets at almost any price; export subsidization is commonplace, with such subsidies frequently exceeding the value of the product. The world dairy market is in a state of turmoil and disorganization. In consequence, nearly all countries find it necessary to control dairy products imports by one device or another.

When Section 22 was originally utilized in 1953 to deter imports from materially interfering with the dairy price support program, all the items placed under quota were articles normally found in international trade. In 1954, the first full calendar year of quota operations under Section 22 controls, imported products amounted to 441 million pounds, whole milk equivalent.

The President

2

As world dairy supplies have increased, so has the relative attractiveness of the United States market. Recent utilizations of the provisions of Section 22 have necessarily had the specific intent of restraining importations of foreign dairy surpluses, particularly of products deliberately formulated in order to evade existing dairy import restrictions.

The most recent Section 22 action, Proclamation 3884 of January 6, 1969, was intended to limit annual imports to 1.3 billion pounds, whole milk equivalent, an amount the Department considered to be consonant with the Department's price support program. Now, however, we are again faced with an increase in imports beyond this level and which again threatens to affect seriously the Department's support program. This situation requires me to request that you direct the Tariff Commission to undertake an investigation under Section 22 of the Agricultural Adjustment Act, as amended, as to the need for import restrictions on certain articles.

The products on which import restrictions are recommended are the following:

1. Ice cream, as provided for in item 118.25 part 4, subpart D, of Schedule 1 of the Tariff Schedules. The most flagrant abuse in the list of dairy products currently free of restriction concerns ice cream. Prior to April 1969, there was no record of any imports of ice cream, which is listed in the Tariff Schedules as Item 118.25. In that month, there began the importation of frozen mixtures containing the ingredients of ice cream but in different proportions and with abnormally large milk solids content. This type of product was classified as "ice cream" even though the product was not used for direct consumption but, rather, for the manufacture of commercial ice cream. In effect, these mixtures are a modification of the "Junex" mixes which were placed under quota restriction in 1967 and 1969.

Imports of this putative ice cream during January-November 1969 exceeded 14.5 million pounds, representing roughly 29 million pounds of genuine ice cream or 86 million pounds milk equivalent. The Bureau of Census data show the price per gallon from 72.7 to 80.6 cents. The same product made at support level prices with domestic butterfat, non-fat milk solids and sugar, all of which are subject to price support, would be approximately \$1.50 per gallon.

This evasion threatens to become a major leak in the import control structure. Whereas the original (and still principal) source of supply is Belgium, six other countries (Canada, Denmark, Jamaica, New

The President

3

Zealand, Sweden and West Germany) have entered the field. Prompt establishment of an import quota on ice cream, covering genuine ice cream as well as the putative product, is recommended.

2. Chocolate provided for in item 156.30 of part 10 and articles containing chocolate provided for in item 182.95, part 15, Schedule 1 of the TSUS, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection). Presidential Proclamation 3854 of January 6, 1969, set a limit on imports of milk chocolate crumb as "Chocolate provided for in item 156.30, of part 10, Schedule 1, if containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection)." The specification of a butterfat content for quota purposes of over 5.5 percent derives from similar descriptions of other products made from a combination of dairy and non-dairy ingredients; until recently, it had no practical significance since the butterfat content of normal chocolate crumb is 8-12 percent.

Now, however, the 5.5 percent provision has become a loophole for quota evasion. Crumb with a butterfat content just under the minimum percent has come in, both under the TSUS 156.30 and also (because of differing sugar/chocolate content) under TSUS 182.95, "Edible preparations not specifically provided for," a category in which articles containing 5.5 percent or less butterfat are likewise not subject to quota.

The Bureau of Customs estimates that from the initial importation on through mid-December, approximately 400,000 pounds of low-fat chocolate crumb have been imported. This figure can be expected to mount rapidly. This is a product which never existed before and which has been devised specifically for the purpose of circumventing United States import restrictions. Furthermore, the reduction in butterfat content is accompanied by an increase in nonfat milk solids. This is a situation which needs correction by making the product subject to quota.

3. Animal feeds containing milk or milk derivatives, classified under item 184.75, subpart C, part 15 of Schedule 1 of the TSUS. Another development of particular concern has been the growth in imports of "milk replacer" animal feeds consisting of nonfat dry milk (or dry whole milk) to which other non-dairy ingredients have been added, particularly fats such as tallow, grease or lard. The addition of the non-dairy ingredients allows this type of product to enter without being subject to the import quotas for dried whole milk, dried buttermilk and whey, or dried skimmed milk, all of which have been subject to Section 22 restriction since July 1, 1953.

The President

4

Imports of such animal feeds commenced in January 1968, following a Bureau of Customs decision in August of 1967 that such product was classifiable as an animal feed and free of quota as long as that class or kind of merchandise to which the imported product belonged is chiefly used for animal feed purposes. Imports in 1968 were 2.4 million pounds and rose to 8.5 million pounds for the first eleven months of 1969. Significantly, moreover, the rate of imports is accelerating and the major supplier, Ireland, has been joined by Australia and New Zealand.

These feeds compete with domestic feeding of milk and milk solids, whether such feeding takes the form of whole milk fed directly; fluid skim milk, buttermilk or whey returned from creameries and cheese factories; dry feeds containing milk solids; or nonfat dry milk purchased for feeding purposes. The landed, duty-paid cost of the imported feeds is from 12-15 cents per pound; the minimum (support) price for domestic nonfat skim milk (to which animal fats must be added) is slightly above 23 cents. With this price difference, there can be little doubt that the imported feeds, unless checked, will gain wide and growing acceptance.

Imports of these "milk replacer" animal feeds threaten interference with the price support program for dairy products. Current trends presage materialization of that threat in significant magnitude. Action to establish quotas should be taken now to forestall that threat before it becomes disruptive and costly.

4. Cheese, and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.65 of subpart C, part 4 of Schedule 1 of the TSUS, except articles within the scope of other import quotas provided for in Part 3 of the Appendix to the TSUS; if shipped otherwise than in pursuance to a purchase, or if having a purchase price under 47 cents per pound. Proclamation 3884, in establishing import quota 950.10D of the TSUS provided for exceptions for "cheese not containing cow's milk; cheese, except cottage cheese, containing no butterfat or not over 0.5 percent by weight of butterfat, and articles within the scope of other import quotas provided for in this part."

The exception as provided in Proclamation 3884 has stimulated an influx of skim milk cheese for use in the manufacturing of process cheese food. No such cheese was imported previously. This is a recent development which can be expected to expand considerably under the pressure of price incentives. It is therefore necessary that the description of this item be changed to eliminate the exception for cheese containing no butterfat or not over 0.5 percent by weight of butterfat.

U.S. Tariff Commission
press release, October 6, 1970, 1-2

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PUBLIC

INFORMATION

U.S. TARIFF COMMISSION

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20436
PHONE: NA. 8-3947

For release
October 6, 1970

TARIFF COMMISSION RELEASES REPORT TO THE PRESIDENT
ON DAIRY PRODUCTS

The U.S. Tariff Commission today released its September 21, 1970, report to the President on the results of an investigation of certain dairy products under section 22 of the Agricultural Adjustment Act, as amended. The purpose of the investigation (No. 22-28) was to determine whether ice cream, certain chocolate and articles containing chocolate, certain animal feeds, and certain cheeses are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the U.S. Department of Agriculture's price-support programs for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat.

The Commission unanimously found material interference, or practical certainty of such interference, from imports of all the products named above and recommended import quotas of zero for ice cream, certain chocolate and articles containing chocolate, and certain animal feeds. With respect to certain cheeses, the Commission recommended an absolute quota of 100,000 pounds for each calendar year after 1970. The quotas they assigned to the various products are based on the patterns of trade during the calendar years 1963 through 1965, inclusive.

The Commission's report contains, in addition to the Commission's statement of the considerations on which its findings

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U.S. Tariff Commission
press release, October 6, 1970, 1-2

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and recommendations were based, information on the domestic dairy situation, Federal programs for dairy products, foreign trade, and support programs and export subsidies of foreign countries.

Copies of the report (T.C. Pub. 338) are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, 8th and E Streets, N.W., Washington, D.C. 20436.

* * * * *

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PUBLIC

INFORMATION



U.S. TARIFF COMMISSION

**OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20540
PHONE: 444-3000**

14.2 U.S. Tariff Commission
press release

For release
October 6, 1970

**TARIFF COMMISSION RELEASES REPORT TO THE PRESIDENT
ON DAIRY PRODUCTS**

The U.S. Tariff Commission today released its September 21, 1970, report to the President on the results of an investigation of certain dairy products under section 22 of the Agricultural Adjustment Act, as amended. The purpose of the investigation (No. 22-28) was to determine whether ice cream, certain chocolate and articles containing chocolate, certain animal feeds, and certain cheeses are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the U.S. Department of Agriculture's price-support programs for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat.

The Commission unanimously found material interference, or practical certainty of such interference, from imports of all the products named above and recommended import quotas of zero for ice cream, certain chocolate and articles containing chocolate, and certain animal feeds. With respect to certain cheeses, the Commission recommended an absolute quota of 30,000 pounds for the remainder of 1970 and an absolute quota of 100,000 pounds for each calendar year after 1970. The quotas they assigned to the various products are based on the patterns of trade during the calendar years 1963 through 1965, inclusive.

The Commission's report contains, in addition to the Commission's statement of the considerations on which its findings

and recommendations were based, information on the domestic dairy situation, Federal programs for dairy products, foreign trade, and support programs and export subsidies of foreign countries.

Copies of the report (T.C. Pub. 338) are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, 8th and E Streets, N.W., Washington, D.C. 20436.

* * * * *

5. On October 19, 1970 Secretary Hardin recommended that the Tariff Commission's recommendations be implemented. The Task Force on Agriculture Trade of the Council of Economic advisors disagreed with Secretary Hardin and unanimously recommended to the President, on November 7, 1970, that imports of these items should not be cut off. Thus CEA did not forward Secretary Hardin's recommendation to the President. On November 30, 1970, Secretary Hardin in a memo to Bryce N. Harlow, Assistant to the President, again pushed for a zero quota on one of the items.

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5a. Memorandum, dated October 19, 1970, from Don Paarlberg to Paul W. McCracken with attachment.	70
5b. Memorandum, dated November 9, 1970, from Hendrick S. Houthakker to Don Paarlberg.....	73
5c. Memorandum, dated November 30, 1970, from Secretary Hardin to Bryce N. Harlow.....	74

October 19 1970

SECRET
OCTOBER 16 1970
SECY'S SECRETARIAT & COMM. STAFF

TO: Paul W. McCracken, Chairman, Council of Economic Advisors
FROM: Don Paarlberg, Director, Agricultural Economics
SUBJECT: Dairy Export Quotas

You will soon receive an options paper on dairy import quotas from the Ad Hoc Task Force on Agricultural Trade.

Secretary Martin has asked me to forward the attached letter to the President urging that the President accept the recommendations of the Task Force. I should appreciate as very much if you will bring this matter to the President's attention at the earliest opportunity.

Enclosure

FAS:IT:ARDeFelice:dld:ext 6887:10/19-70

FAS-190

*Cleared in
with
P.H.P. and*

(Retyped from illegible copy)

(Tab 5a)

October 19, 1970

Filed

Please return to
F. A. S.

The President
The White House

Dear Mr. President:

I refer to Report 338 of the Tariff Commission on certain dairy products, containing findings and recommendations in response to your directive of May 13 that the Commission investigate and report on the necessity for import controls. The products concerned are: ice cream, chocolate crumb with a fat content of 5.5 percent or less, animal feeds containing milk or milk derivatives, and certain cheese containing 0.5 percent or less by weight of butterfat.

As you know, the Commission found unanimously that imports of the four products are interfering with the dairy price support program and recommended zero quotas for all items except the low-fat cheese. For low-fat cheese, the Commission recommended an annual quota of 100,000 pounds to permit continuance of traditional imports of "hard cheese," a specialty product which is in the same classification as skim milk manufacturing cheese, the item which we seek to bring under control.

Two alternative proposals for your decision are being submitted by the task force chaired by Mr. Houthakker. One is acceptance of the Commission's recommendation in toto; the other is establishment of import quotas in amounts equal to actual imports during the period July 1969-June 1970, inclusive.

I am firmly convinced that acceptance of the Commission's recommendations is the only proper course of action. The Commission's investigation has substantiated my position that the trade concerned reflects in its entirety (except for "hard cheese") evasions of the intent and purpose of existing import controls. To conclude that the July 1969-June 1970 period, in which accelerating imports necessitated my recommendation and your action, is "representative" is to deny both fact and logic. Failure to follow the Commission's recommendations can only strengthen the hands of the critics who charge that the Administration is unwilling to carry out the intent of Congress in enacting Section 22.

I urge that you accept the Tariff Commission's recommendations and issue a proclamation to give them effects as soon as possible. For your convenience, a draft proclamation is enclosed.

Sincerely,
CLIFFORD M. HARDIN

October 19 1970

FILED
PLEASE RETURN
TO

The President
The White House

Dear Mr. President:

I refer to Report 345 of the Tariff Commission on certain dairy products, containing findings and recommendations in response to your directive of May 13 that the Commission investigate and report on the necessity for import controls. The products concerned are: ice cream, chocolate cream with a fat content of 5.5 percent or less, animal feeds containing milk or milk derivatives, and certain cheese containing 2.5 percent or less by weight of fat.

As you know, the Commission found unanimously that imports of the four products are interfering with the dairy price support program and recommended zero quotas for all items except the low-fat cheese. For low-fat cheese, the Commission recommended an annual quota of 100,000 pounds to permit maintenance of traditional imports of "hard cheese," a specialty product which is in the more tariff classification as skin milk manufacturing cheese, the item which you wish to bring under control.

Two alternative proposals for your decision are being submitted by the task force chaired by Mr. Ehrlichman. One is acceptance of the Commission's recommendations in total; the other is establishment of import quotas in amounts equal to actual imports during the period July 1969-June 1973, inclusive.

I am firmly convinced that acceptance of the Commission's recommendations is the only proper course of action. The Commission's investigation has substantiated my position and the trade concerned reflects in its entirety (except for "hard cheese") conditions of the market and purposes of existing import controls. To conclude that the July 1969-June 1973 period, in which recommendations have been implemented by recommendation and your action, is "too sensitive" is to bring both fact and logic. Failure to follow the Commission's recommendations not only strengthens the hands of the softies but also suggests that the Administration is unwilling to carry out the intent of Executive Order 11724.

I urge that you accept the Tariff Commission's recommendations and issue a proclamation to give that effect as soon as possible. For your convenience, a draft proclamation is enclosed.

Sincerely,

Walt

WALTER D. REAGAN
Secretary

WDR 10/19/70

miss

~~COUNCIL OF ECONOMIC ADVISERS
WASHINGTON~~

PAUL W. MCCrackEN, CHAIRMAN
HENDRIK S. HOUTHAKKER
HERBERT STEIN

November 9, 1970

MEMORANDUM FOR DON PAARLBERG
Director, Agricultural Economics

~~OFFICIAL
SECRETARY'S FILES
SECY'S REC'D
NOV 10 1970~~

Subject: Dairy Import Quotas

As you know, the Task Force on Agricultural Trade has made a unanimous recommendation on dairy imports to the President. In view of this, there presumably is no longer any need to forward the letter from Secretary Hardin to the President which you sent to Paul McCracken on October 19. We are therefore holding these letters. If you want them back, I shall be glad to return them.

H. S. Houthakker
Hendrik S. Houthakker

*I: ask De Felice if we
should have the letter back.
I think "yes."*

1/30/70

FOR OFFICIAL USE ONLY

MEMORANDUM FOR: Bryce H. Harlow, Assistant to the President
The White House

SUBJECT: Pending Section 22 Dairy Action

I have had a further look at the recommendation for Section 22 controls on four additional dairy items, including ice cream mix. I am now convinced that the proposed settlement is too generous and for this reason believe we must review it again.

I am especially concerned about the implications of the proposed settlement for ice cream mix. This is strictly a contrived product--contrived to get around existing import controls. In the past, it has appeared in substantially the same form but under different descriptions such as Jambex, Iovione, etc. These have been brought under control on a very tight basis.

If we were to proceed with a fairly generous quota for the current ice cream mix product, it would appear that we were not only rewarding those who sought to exploit loopholes in the program, but were encouraging additional efforts to discover new loopholes. It is quite clear that this product, which is called ice cream by the sellers but which undergoes further processing before it is used as ice cream, is imported in this form because there are controls on ice cream mix.

In our original proposal to the Tariff Commission, we recommended a zero quota for ice cream mix. The Commission itself recommended a zero quota. I believe we should be very tough on this item and hold to a zero quota.

I have no objection to the proposed 1970-73 quota amounts for the other three products. They are not so troublesome as ice cream mix with respect to the price support program.

Clifford M. Hardin
Secretary of Agriculture

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FWS-211

6. On December 16, 1970, Patrick J. Hillings of the Washington, D. C. law firm of Reeves and Harrison gave Roger Johnson a letter addressed to the President. It requested, on behalf of AMPI, that the Tariff Commission's recommendation of strict import restriction be adopted. The letter referred to contributions to Republican candidates in the 1970 Congressional election and to plans to contribute \$2,000,000 to the re-election campaign. Attached to the letter was an extensive economic and political analysis of dairy import quotas. Roger Johnson referred the matter to H. R. Haldeman. An undated memorandum from John Brown referred it to "J. C.," who was to check with Ehrlichman and Colson regarding whether the letter should be sent to the President. The letter ended up in Charles Colson's safe and Colson criticized Hillings for sending such a letter. Hillings had not intended or expected that the President see it in the first place and does not believe that the President did see it. There is no evidence that the President ever saw it.

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6a.	Routing memorandum from John Brown to J. C.; Memorandum, dated December 17, 1970, from Roger Johnson to H. R. Haldeman; Letter dated December 16, 1970, from Patrick J. Hillings to the President with attached memorandum...	76
6b.	Deposition of Patrick J. Hillings, taken January 15, 1974, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72) pp. 37-42, 50-52,.....	96
6c.	Memorandum of Senate Select Committee interview with Murray Chotiner on December 7, 1973, and verifying affidavit,.....	107

THE WHITE HOUSE
WASHINGTON

TO: J E

FROM: JOHN BROWN

FYI _____

COMMENT would you
change with E B
from an unclassified
document to a
secret document
?

Dean
11/29/73

MEMORANDUM

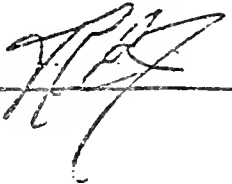
sa. ROGER JOHNSON MEMORANDUM, DECEMBER 17, 1970

THE WHITE HOUSE
WASHINGTON

December 17, 1970

TO: H. R. HALDEMAN
FROM: ROGER JOHNSON
SUBJECT: Letter to the President from Pat Hillings.

Pat Hillings handed me the attached letter and asked that it be directed to the President. It concerns a matter with which both Peter Flanigan and Chuck Colson are familiar and on which they are working.



LAW OFFICES

REEVES & HARRISON

SUITE 500

1701 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20006

TELEPHONE 202 278-9030

TELEX 440374 CRDA

CABLE "REEVLA"

JOHN EDWIN HARRISON
ROBERT GENE REEVES
LESTER SAGUE
DON SOLTER
BY R. POTTER

OF COUNSEL
PATRICK J. HILLINGS
WM. MONTGOMERY SMITH

December 16, 1970

The Honorable Richard Nixon
The White House
Washington, D. C.

Re: \$22 Tariff Commission (Milk) Recommendations
Presidential Proclamation

Dear Mr. President:

This letter discusses a matter of some delicacy and of significant political impact.

Since January 1 my Washington partner Marion Harrison (one of your 1968 Virginia Co-Chairmen) and I have represented Associated Milk Producers, Inc. ("AMPI"). At the White House in September you privately met AMPI's two key leaders, Harold Nelson and Dave Parr. You spoke by telephone from the beach at San Clemente to Secretary Hardin and to Harold Nelson during AMPI's annual convention in Chicago Labor Day weekend. You told Harold of your intent personally to address AMPI's next annual convention (a gathering of almost 30,000 dairy farmers and their families).

AMPI has followed our advice explicitly and will do so in the future. AMPI contributed about \$135,000.00 to Republican candidates in the 1970 election. We are now working with Tom Evans and Herb Kalmbach in setting up appropriate channels for AMPI to contribute \$2 million for your re-election. AMPI also is funding a special project.

On September 21 the Tariff Commission recommended to you, after it did a study you requested in May, four specific quotas for four specific dairy products. These recommendations are well documented and by now are well known in the dairy and related industries. No Presidential Proclamation has been issued.

The problem is this. The dairy industry cannot understand why these recommendations were not implemented

very quickly. The longest the Democrats ever took to implement a Tariff Commission dairy recommendation was 16 days. On one occasion, President Johnson even imposed quotas before he received the Tariff Commission's recommendations!

The overall parity ratio is at its lowest since December 1933. Farmers generally are unhappy with the economy. You know our farmbelt losses in the election.

The Government saves money (by saving price support payments) and the farmer makes money when the recommended quotas are imposed. The products are all "evasion" products - that is, products which historically were not imported but which started to be imported only after quotas were imposed on other products.

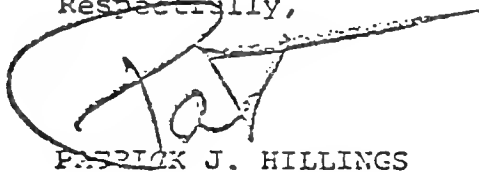
The dairy and related industries have great faith in your personal leadership. At the same time, they are shaken by the economy. The right kind of Proclamation issued quickly would dramatize your personal interest in a large segment of agriculture.

This problem is bogged down within the White House. It is a victim of the bureaucracy - the Trade Bill people, the National Security Council people, the domestic people. It has been studied and restudied. It is not moving.

We write you both as advocates and as supporters. The time is ripe politically and economically to impose the recommended quotas. Secretary Hardin, the Tariff Commission and the dairy industry all support this. All that is necessary is a simple Proclamation implementing the four specific Tariff Commission recommendations.

(We attach a more detailed Memorandum. The subject is quite interesting if you have time for it.)

Respectfully,



PATRICK J. HILLINGS

PJH:ek

Enclosure

LAW OFFICES

REEVES & HARRISON

SUITE 300

1701 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D. C. 20006

TELEPHONE 202 294-9030

TELEX 44-0375 CROX

CABLE "REEVLAW"

OF COUNSEL

PATRICK J. HILLINGS
WM. MONTGOMERY SMITH

EDMUND HARRISON
ROBERT REEVES
ST. P. BAGLE
W. SOLTER
A. PORTER

December 1, 1970

MEMORANDUM TO THE SPECIAL COUNSEL TO THE PRESIDENT

Dairy Industry Support for §22 Tariff
Commission Recommendations

1. Introduction

The dairy industry supports the §22 Tariff Commission recommendations for import quotas and opposes the White House staff proposal. This Memorandum is written on behalf of our client, Associated Milk Producers, Inc., representing a very major segment of the dairy industry, in support of the President's issuing a Proclamation implementing the §22 Tariff Commission recommendations exactly as recommended by the Tariff Commission.

a. §22 Tariff Commission Recommendations

The Tariff Commission has recommended to the President that he set quotas of zero for "ice cream"; of zero for certain chocolates; of zero for certain animal feeds; and of 100,000 pounds per annum for certain lowfat cheeses. These recommendations are based upon historic imports.

b. Staff Proposal

The staff proposes to submit to the President a recommendation that he set quotas drastically higher than

those recommended by the Tariff Commission - specifically, 5 million pounds (or 633,500 gallons) for ice cream; 5 million pounds for chocolate; 17 million pounds for animal feeds; 9 million pounds for lowfat cheese.

The staff's recommendation evidently is based upon a synthesis of admittedly difficult foreign trade negotiation considerations, a lack of full realization of the economic impact of its recommendations upon the American dairy industry, a minimization of possible domestic political impact and a non-acknowledgment of the evasion factors involved in the recent dramatic increases in imports.

We fully recognize the difficulty of the staff's assignment. We believe that the approach taken by the staff has made that assignment more difficult. We are hopeful the facts set forth in this Memorandum and in the tables attached will be helpful.

c. Absence of Legal Issues

Apparently at least one member of the staff is concerned that we might be under the impression the dairy industry has some kind of legal right to quotas as recommended by the Tariff Commission. Obviously we are under no such impression. The statute is clear. The President has absolute discretion, unreviewable in the courts, and final authority. (Indeed, if we had a legal right, there would be nothing about which to negotiate.)

2. Political Considerations

Since this firm began to represent AMPI, that organization has been, and regardless of the outcome of this matter will continue to be, most helpful to the Administration.

However, neither AMPI nor any other source of leadership in the dairy industry can guarantee the support of the membership and of those many segments of voters who directly or indirectly are tied in to the agricultural economy. As the recent election has shown, the economic issue is foremost in the minds of many voters and, reasonably or otherwise,

- 3 -

when there is a downturn in the economy, they hold it against the Administration.

The dairy farmers' 1972 vote obviously is not going to turn totally upon the quotas set for dairy products. However, that is one of many factors which go into the mix that ultimately both psychologically and economically affects the dairy farmers' relationship with the Administration. The present lack of accord as to quotas is particularly puzzling to those dairy farmers sufficiently sophisticated to be aware of the situation, a number which increases as time passes. This is so because in the past the dairy industry more often than not has sought quotas stricter than those recommended by the Tariff Commission. Here the industry seeks only to implement the recommendations of the Tariff Commission. Farmers cannot understand the subtleties of diplomatic negotiation. When the Tariff Commission issues a detailed, factual and convincing report, based upon a study directed by the President, farmers do not understand why the President will not accept the recommendations contained in the report. (The fact that those of us in Washington allegedly more sophisticated in these matters can understand some of the problems, unfortunately, is neither relevant nor convincing.)

a. North Central States

The dairy industry exists in varying proportion in all 50 states. It is strongest in some of those states which traditionally are the backbone of Republican voting strength and which the President must carry in 1972. Some 65% of all milk used in manufactured dairy products comes from the Dakotas, Minnesota and Wisconsin. In the recent election, we lost every statewide race in those four states. We also lost five House seats. We do not suggest the difference in the amount of a quota on a dairy product would mean the difference in such races. We do suggest that the political considerations which motivate recognition of the dairy industry's import problems are significant in the total voter reaction in those states.

b. Merits

The welfare of the dairy industry is closely tied to the Government. In large measure this is a consequence

of too much success in increasing dairy production. However, we must face the facts as they are and not as one might wish them to be. Fortunately, the Tariff Commission's 522 recommendations stand on their own merits, all political considerations aside.

3. Psychological and Price Considerations of Dairy Industry

Both psychological and price considerations of the dairy industry should be considered. The latter can be explained more readily than the former.

As Table VI indicates, if the staff proposal were implemented, dairy farmers would lose an estimated \$4,649,000.00.

The psychological blow to the dairy industry would be meaningful, difficult though it is to attempt to explain.

At the present time, there is substantial personal support for the President in the dairy and related industries and, except for the present adverse economic condition in the country, there is general dairy farmer support for the Administration. The sources for this feeling are many - the dairy farmer's personal admiration for the President, the dairy farmer's natural inclination (in most states, particularly outside the South) toward the Republican Party, the dairy farmer's appreciation of his good relations with the present Administration and other factors. The dairy farmer reasonably cannot expect to get from this Administration, or from any other, everything he wants. However, to turn him down in an area where another body of the Government, ostensibly speaking with great expertise, publicly has recommended something he wants, risks a psychological blow of unpredictable proportion. (As some know, there are also other considerations why AMPI cannot afford any psychological block to its present activities.)

Even more complicated than the direct psychological repercussion is the combined psychological and economic repercussion. When some purchasers are allowed to purchase imported dairy products at a price less than all other purchasers must pay for domestic products, there is an unfair cost advantage to all other purchasers. If the staff proposal be implemented, that unfair cost advantage would be about \$3,510,000.00 (Table VI).

- 5 -

The exercise of that advantage tends to have a lowering effect generally on dairy product prices. The dairy industry is not necessarily advocating continually higher prices for dairy products. However, as a matter of survival, it must favor at the minimum (1) the holding of present prices and (2) price increases based upon cost of living increases and increased production costs. The creation of an unfair price advantage to a small portion of purchasers has a negative impetus on these goals.

4. Evolution of Imports

The evolution of imports of ice cream, chocolate, animal feeds and lowfat cheese - the §22 items - is particularly relevant.

Normally imports of a product, dairy or otherwise, rise or fall according to a pattern which relates to internal demand and cost competition factors. In the instance of these §22 products, as with a number of other dairy products in recent years, the rise in imports is sudden and dramatic. Appendix A, which reproduces page 19 of the §22 Report, by table shows this increase. Ice cream went from zero in the first five months of calendar 1969 to 2,583,000 gallons in the last seven months of calendar 1969. In the first seven months of calendar 1970, it went to 4,012,000 gallons. Thus, in the fiscal year 1970, total ice cream imports were almost 6,600,000 gallons - an acceleration from zero! The figures are similar with respect to the other products. Lowfat cheese had minimal imports through the years but these, too, increased dramatically in 1969 and 1970. Complete calendar 1970 figures are not available. However, all informed sources seem in agreement that the rate of acceleration continues unabated.

Imports appear to be running presently at about 1.4% of total domestic dairy production. Since 1953, imports have run as low as 0.4%, as high as 2.4% (1957). As the information at page 55 of the §22 Report indicates, imports now apparently are rising again. (The figure of 1.4% - rising - is to be contrasted with an export figure for 1969 of 0.8%. Of course, even if exports in percentile terms equalled or exceeded imports, the cost disadvantage to the dairy and related industries and to the taxpayer through support prices would continue.)

The reasons for the sudden and dramatic rise in imports of these four products are easy to find. Since 1953, there have been \$22 quotas on some dairy products. As a quota is imposed and enforced, foreign competitors find a loophole in the form of another product not under quota. They then commence exporting of that non-quota product. Since the Presidential Proclamation of January 1959, foreign producers have moved to the loopholes represented by the present absence of quotas in the four \$22 products.

5. Reward for Evasion

As Tables I and II indicate, the staff proposal would reward the foreign evader for his successful evasion. In other words, the foreign producer did not export, for example, ice cream, until fiscal 1970. He exported it then only because a prior proclamation had curtailed his exporting certain other products. As the \$22 Report shows, the record of imports in the dairy industry is the record of successful evasions. The foreign exporter pursues a relentless quest for a loophole - a product for the moment not under quota.

We perceive no reason why successful evasion should be rewarded.

It has been suggested that the proposal for ice cream would "roll back" or "cut back" ice cream imports to 25% of calendar 1969. Expressed in that frame of reference, this proposal seems stringent. However, if one looks at the record of imports, one finds that there were no imports of ice cream until calendar 1969. Consequently, to roll back or cut back to 25% of those imports is no rollback or cutback at all, but rather is a reward to the foreign exporter for his assiduousness and acumen in discovering that ice cream - itself an unfinished product unrecognizable as ice cream - might offer a loophole. To make the 25% figure or any other figure meaningful, the frame of reference must be relevant. If one is going to limit a chicken thief to the number of chickens he may steal, one should use as his frame of reference the historical years during which there was no thievery rather than the most recent year during which for one reason or another the chicken thief began his nefarious activity. Twenty-five percent of an evasion is an evasion - to be precise, an evasion at the rate of 5,000,000 pounds or 638,500 gallons annually.

We strongly enjoin upon the staff the wisdom of selecting a meaningful frame of reference - the historical years during which these evasion products were not imported. As the Tariff Commission as stated, ". . . the period in which such increases in imports occurred cannot properly be regarded as being the whole, or part, of a representative period within the meaning of the statute. To do so makes the 'representative period' concept meaningless; it not only improperly increases the minimum permissible quantities of articles which may be imported but also affects the equities of the foreign countries that supplied, and the importers who imported, the traditional imports of dairy products" Page 20, §22 Report.

With respect to three of the four §22 products there is not even a suggestion of an alleged rollback. As Table II demonstrates, the proposal would permit chocolate imports 10 times greater than the actual imports for calendar 1969, animal feed imports twice greater than the actual imports for calendar 1969 and lowfat cheese imports three times greater than the actual imports for calendar 1969.

The line of reasoning behind such suggested permissiveness can be only one or both of two considerations, either unacceptable to the dairy industry. The first would be that quotas if too low are unenforceable. The other would be that the proposed quotas are less than imports will be in 1970 or would be in some future year. As to enforceability, it seems clear that the simpler means to facilitate enforcement is to set a zero quota - any quantity is unlawful, no measurement or guessing as to prior imports is required. As to portended increases, such reasoning only stimulates a feverish-effort rapidly to increase imports. If importers are given to understand that future quotas will be set in relation to what the importer might do in the future if given the time and encouragement to do it, the importer will be rewarded for his ingenuity and speed in finding evasion products and dumping as many of them as possible and as quickly as possible upon the American market.

6. Cost to Taxpayers and Farmers

As Tables III, V and VI demonstrate, the staff proposal would cost the taxpayers money in the form of Department of Agriculture (CCC) support payments or would

- 8 -

cost the dairy farmer money through product dislocation. The former loss would be about \$3,945,000.00 and the latter loss would be about \$4,649,000.00.

The present proposal would legitimize imports of \$9,300,000.00 whereas actual imports prior to calendar 1969 of the same four products were only \$20,000.00. It is easy to dismiss the whole subject as of limited meaning by assigning a percentage for imports in comparison to some astronomical but irrelevant figure as, for example the percentage of imports to total domestic dairy production. However, when one views the actual dollars and considers that the proposal would legitimize imports at an increase from \$20,000.00 to \$9,300,000.00, the impact becomes more visible.

7. Relationship of \$22 Dairy Products

It has been suggested that ice cream accounts for 88% of the four \$22 products, that the percentile increase for ice cream is less than for the other three products and that, therefore, by some alchemy, the total proposal should have no dollar affect upon the dairy and related industries.

One should note initially that ice cream does not represent 88% of the total of the four products. On the basis of solids not fat measurement, it represents only 9,000,000 pounds or 3% - by far the least of the four products. On the basis of fat measurement, it represents 25,000,000 pounds or 76%. Because animal feeds are not a fat product, comparison on the basis of fat measurement omits 170,000,000 pounds of solids not fat measurement as to animal feeds and renders the entire basis for comparison useless. See Table IV.

On the basis of a dollar comparison, ice cream also is the smallest of the four products - see Table V, showing that ice cream represents \$1,300,000.00 compared to \$1,400,000.00 for chocolate, \$2,700,000.00 for lowfat cheese, \$3,900,000.00 for animal feeds, a total of \$9,300,000.00. Even on the basis of imported value as distinguished from domestic value, ice cream represents the smallest value, \$500,000.00 of \$5,790,000.00.

Thus, it is incorrect to contend that there should be no problem because there is a rollback as to

ice cream and ice cream is 23% of the total package. This argument is incorrect for two reasons, as noted supra, (1) because by either of the two acceptable methods of measurement, ice cream is the smallest of the four products; and (2) because ice cream is not to be rolled back but rather is to be increased by 5,000,000 pounds or 638,500 gallons over its pre-1969 import level.^{1/}

^{1/} In support of the proposition that measuring ice cream by fat content is an improper means of measurement, we note the comment of the Tariff Commission.

". . . In examining the effects of imports on the price-support programs, it is therefore necessary to give due consideration not only to the butterfat, but also to the nonfat milk solids contained therein.

"Imports of many of the basic forms of nonfat milk solids (i.e. nonfat dry milk, dry buttermilk, and dry whey) have been subject to section 22 quotas since the initial section 22 quotas were established in 1953. Since that time most of the emphasis on imports of dairy products has been on products containing butterfat and no nonfat milk solids or on products containing large proportions of butterfat in relation to their nonfat milk solids content. As the importation of these products has increased they have generally been placed under section 22 limitations to prevent them from interfering with the price support programs.

"As the imports of dairy products with significant butterfat content have been for the most part brought under section 22 controls, importers have now also turned their attention toward products which contain little or no butterfat, but which contain significant amounts of nonfat milk solids (e.g., the animal feeds and low-fat cheese considered in this investigation). When measuring imports of such products, milk equivalency on a butterfat basis is obviously of limited usefulness" Pages 5-6, §22 Report.

- 10 -

3. Conclusion

From the foregoing, it should be clear that the dairy industry cannot accept the staff proposal as a helpful implementation of the §22 recommendations or as a significant step toward solving the problem of evasion imports. It also should be clear that, merits aside, practical political considerations militate in the direction of implementing §22 recommendations, at least to the extent not totally precluded by a countervailing political (as distinguished from diplomatic) consideration.^{2/}



MARION EDWIN HARRISON

^{2/} The diplomatic considerations should not be undue. A reasonable foreign negotiator would have to admit that the discussion concerns evasion products and that the historical and meaningful base period is that of zero or negligible imports. The assignment of our diplomatic negotiators should be to negotiate the result we desire, not to limit the result by the difficulty of the negotiations.

COMPARISONS - MILK PRODUCTS IMPORTS

<u>Products</u>	<u>Actual Imports</u>		<u>Proposals</u>	
	<u>Average Per Annum Base Period/ 1963-1965</u>	<u>Average Per Annum Base Period/ 1967-1969</u>	<u>\$22 Recommendation Per Annum</u>	<u>Staff Proposal Per Annum</u>
Cream ² / colate	-0-	863,000	-0-	638,500
tain animal ecds	-0-	159,000	-0-	5,000,000
tain lowfat heeses	60,000	4,039,000	-0-	17,000,000
		1,040,000	100,000	9,000,000

Base period average means total for base period divided by number of years in base period.
Gallons. Other figures in pounds.

TABLE II
COMPARISONS - MILK PRODUCT IMPORTS

<u>Products</u>	<u>Actual Imports Calendar 1969</u>	<u>Staff Proposal</u>	<u>Ratio</u>
Ice Cream/	2,588,000	638,500	25%
Chocolate	477,000	5,000,000	10 times greater
Certain animal feeds	9,693,000	17,000,000	Twice greater
Certain lowfat cheeses	3,000,000	9,000,000	3 times greater

Gallons. Other figures in pounds.

ANALYSIS OF PROPOSED DAIRY QUOTA

<u>Product</u>	<u>Staff Proposal Product Pounds</u>	<u>Milk Equivalent</u>	<u>Costs</u>	
			<u>To USDA</u>	<u>To Dairy Farms</u>
Ice Cream	5,000,000	9,000,000 - SNF ^{3/} 25,000,000 - fat	205,000.00 - SNF 936,000.00 - fat \$ 1,135,000.00	\$ 476,000.00
chocolate	5,000,000	19,000,000 - SNF 6,875,000 - fat	433,000.00 - SNF 256,000.00 - fat 689,000.00	364,000.00
animal Feeds	17,000,000	170,000,000 - SNF No fat	3,876,000.00 - SNF -0- 3,876,000.00	2,381,000.00
lowfat Cheese	9,000,000	101,000,000 - SNF 1,125,000 - fat	2,303,000.00 - SNF 42,000.00 - fat 2,345,000.00	1,428,000.00
Totals		299,000,000 - SNF 33,000,000 - fat	6,817,000.00 - SNF 1,228,000.00 - fat \$ 8,045,000.00	\$ 4,649,000.00

USDA cost to remove an equivalent volume of product in the form of butter and nonfat dry milk based on cost of \$37,200.00 for each million of fat equivalent and \$22,800.00 for each million pounds of solids not fat (SNF) equivalent.

Costs resulting from imports of these products at proposed levels - assumes a price elasticity of demand at the farm of -.3 (in other words, if imports increase the total milk product supply by 1%, price to farmer drops -.3%).

Solids not fat.

STAFF PROPOSAL -
RELATIONSHIP OF \$22 DAIRY PRODUCTS^{1/}

<u>Product</u>	<u>Fat Measurement</u>	<u>Solids Not Fat Measurement</u>
Ice Cream	25,000,000 = 76 %	9,000,000 = 3 %
Chocolate	6,075,000 = 21 %	19,000,000 = 6 %
Animal Feeds	- = 0 %	170,000,000 = 57 %
Lowfat Cheese	<u>1,125,000</u> = <u>3 %</u>	<u>101,000,000</u> = <u>34 %</u>
Totals	33,000,000 100 %	299,000,000 100 %

^{1/} Pounds or % of milk equivalent.

TABLE V

TOTAL U.S. VALUE OF \$22 DAIRY PRODUCTS

<u>Product</u>	<u>Imports Prior to Calendar 1969</u>	<u>Staff Proposal</u>	<u>Imported Value</u>	<u>Unfair Competitive Advantage</u>
Ice Cream	- 0 -	\$ 1,300,000.00	\$ 500,000.00	\$ 800,000.00
Chocolate	- 0 -	1,400,000.00	1,050,000.00	350,000.00
Animal Feeds	- 0 -	3,900,000.00	2,440,000.00	1,460,000.00
Lowfat Cheese	\$ 20,000.00	<u>2,700,000.00</u>	<u>1,800,000.00</u>	<u>900,000.00</u>
Totals	\$ 20,000.00	\$ 9,300,000.00	\$ 5,790,000.00	\$ 3,510,000.00

TABLE VI

<u>Product</u>	<u>LOSSES TO TAXPAYERS OR FARMERS - STAFF PROPOSAL</u>		
	<u>Cost (Loss) to USDA (Taxpayers)</u>	<u>Loss to Dairy Farmer</u>	<u>Unfair Cost Advantage</u>
Ice Cream	\$ 1,135,000.00	\$ 476,000.00	\$ 800,000.00
Chocolate	689,000.00	364,000.00	350,000.00
Animal Feeds	3,876,000.00	2,381,000.00	1,460,000.00
Lowfat Cheese	<u>2,345,000.00</u>	<u>1,428,000.00</u>	<u>900,000.00</u>
	\$ 8,045,000.00	\$ 4,649,000.00	\$ 3,510,000.00

Thus, while domestic purchasers theoretically could save \$3,510,000.00 by purchasing at the lower import price, their saving would cost taxpayers \$8,045,000.00 or American dairy farmers would lose \$4,649,000.00

A No.

Q Or about campaign contributions?

A No, never had.

Q Now I would like to get on to this letter. Let me show you a series of documents. At the top it is a Xerox of what appears to be a memo to -- and there are two initials -- and it says from John Brown. Then the next leaf is December 17, 1970 memorandum to H.R. Haldeman from Roger Johnson; subject, letter to the President from Pat Hillings.

Then there follows two copies, two Xerox copies of a letter from you to the President, and that is followed by a memorandum dated December 1, 1970, on the letterhead of Reeves and Harrison.

I would like for you and your counsel to look through this.

I should note for the record that those documents were turned over to us pursuant to subpoena by John W. Dean III and copies also had been furnished to the Watergate Special Prosecution Force.

I would like to have this marked as Exhibit 1 to this deposition.

(Exhibit No. 1 marked for
identification)

BY MR. DOBROVIR:

Q Can you tell us how this letter came to be prepared and transmitted, Mr. Hillings?

MR. CHOTINER: Which letter?

MR. DOBROVIR: The letter dated December 16, 1970, to the Honorable Richard Nixon, signed Patrick J. Hillings.

THE WITNESS: The letter was prepared by Mr. Marion Harrison and me and was based on the fact that the Tariff Commission had unanimously recommended favorable action for milk farmers on restriction of imports, but we had to have approval in the White House and for some reason we couldn't figure out the approval had been unnecessarily delayed.

In previous administrations it was often approved right away. The bureaucracy of the White House at this time was such that it was very difficult to get them to act.

You have probably heard the story of the farmer and the mule, haven't you?

MR. DOBROVIR: No.

MR. CHOTINER: This is a milk farmer?

THE WITNESS: A milk farmer, right. This milk farmer was walking along the road and sees on the other side of the road another farmer with a mule. The mule isn't kicking it, hitting it and so forth, and the milk farmer

walks across the road and says that is no way to get that animal to move. The way to do it is to be kind and coax him. So the other guy said well, let's see. You try it. He nuzzles the mule and pats him for about ten minutes and still the mule hasn't moved.

He looks down by the side of the road and sees a two by four, picks it up, and with all his might hits the mule right between the eyes and staggers the animal. The other guy says, I thought you had to keyway get get him to move is to be kind and not chastize him or beat him.

The milk farmer says, yeh, but first you have got to get his attention.

That is what we had to do. That was the purpose of the letter, to get the attention over there, and to try to get them to do what they should have done weeks previous, to act favorably on the recommendation of the Tariff Commission. So we wrote the letter and we had to break through that bureaucracy that existed there at the time. That was the purpose of it.

We also supported it with four memorandum brief of all the facts and figures and details.

We felt the case was meritorious and we were presenting our case as lawyers.

BY MR. DOBROVIR:

Q Now you felt that the way to attract their attention was to open up the letter by discussing the campaign contributions, is that right?

A Well, that was our strategy at that time, was the only way we could get them to get interested, was to talk about the political significance, and the fact that these people, the milk farmers of America, were vital to them and we needed their help and support, and we wanted to let them know that these were friendly people.

As far as the money involved, we didn't consider that a significant thing. We never said they would contribute money if they got the support or anything like that. What we wanted to do was to get their attention.

Q Did you feel that you had to tell them that you were going to contribute political money in order to get their attention?

A We didn't say we were going to contribute political -- we said the milk farmers were out working to raise money to help in the campaign. We didn't say that was the only reason we wanted the favorable action, but we figured that would at least trigger their interest, and it did, but it didn't mean there was any offer to contribute the money. The \$2 million

figure was just pulled out of the air.

Q You say it did trigger their interest. How do you know that?

A Because I got called in by Colson and chewed out.

Q I see.

A Finally got Colson. We never intended it to reach the President.

Q You didn't intent it to reach the President?

A No.

Q Why did you address it to him?

A Because everything you send, you address to the President.

Q Who did you expect this to get to?

A Colson.

Q Did you send a copy to Colson?

A No.

Q How were you sure it would get to him?

A We weren't sure. We figured if we routed it around him, it might work, and it did.

Q Was the problem that Colson wasn't being particularly receptive to your requests for help on this tariff matter?

A It wasn't just ours, the whole bureaucracy over there was way behind. The Congressmen were complaining,

everybody was complaining. You couldn't get any action there, either because they were piled up with too much work or whatever the reason, we couldn't get through.

Q Did you and Marion Harrison prepare this letter together?

A Yes.

Q That was in Washington, the two of you sat down and wrote it out?

A Yes.

Q Now here it says in the third paragraph: "AMPI has followed our advice explicitly and will do so in the future."

Can you tell us what that referred to?

A Well, that was actually Marion's language. I think he was just trying to indicate they were trying, that they were going to be helpful, the milk farmers across the country would be helpful to the administration. There was a time when we were very worried about the farm vote and this was a key factor. I think that is what he was trying to say.

Q He was saying AMPI was following yours and his advice. What kind of advice had you been giving them and I just want to point out that is the paragraph in which mention is made specifically of the possible contribution of \$2 million.

ten minutes.

(Short recess)

BY MR. DOBROVIR:

Q Getting back to the December 16 letter, did you clear that with anybody, for example, with Parr and Nelson before you sent it?

A No.

Q They didn't know that you were sending that letter?

A They didn't know at the time, I don't believe, unless Mr. Harrison talked to them about it. We were their counsel and I don't think lawyers have to consult with their clients on every move they make.

Incidentally, I pointed out, you know, that I didn't intend the President to see it, and I think that is borne out by the memo that you have there, which shows that the letter was delivered to Mr. Roger Johnson, and not to the President, and never went to the President. It went from Johnson to Haldeman to Colson according to the White House memo you showed me.

Q Who is Roger Johnson?

A Roger Johnson is a long-time personal friend of the President that practiced law in Whittier at the same time the President began the practice of law and later became a counsel

for one of the independent oil companies and lived in Washington for many years and then traveled and lived abroad and then retired.

When he retired, Mr. Nixon brought him into the White House as sort of a personal aide to deal with groups and organizations around the country and particularly with a lot of the so-called VIPs. I think he is in the State Department now working on protocol.

Q He was employed in the White House in December, 1970?

A Yes, in the EOB.

Q You knew him?

A Yes.

Q Did you have the letter delivered to Roger Johnson?

A I took it over there and left it with the secretary.

Q Specifically?

A Yes.

Q Did you say to the secretary what she should do with the letter?

A I said I would like Mr. Johnson to see it and route it to the appropriate people. We never intended the President to see it.

Q You did want Mr. Colson to see it?

A Assuming that he was the guy, it turned out to be,

and asked that it be directed to the President. It concerns a matter with which both Peter Flanigan and Chuck Colson are familiar and on which they are working."

On top of that, without a date, it says memo to J.C. -- they are initials -- from John Brown, and a comment:

"Would you check with E and Colson on whether this should go in and if so in what form."

I don't want you to speculate, Mr. Hillings, that is not fair to you. I would like to ask you though if you know what -- other than what is indicated or not indicated in these documents -- do you know yourself what happened to your letter?

A No. I --

MR. CHOTINER: You have answered the question.

Unless somebody told you --

THE WITNESS: All I know is the next time I heard about it is when Colson called me in.

BY MR. DOBROVIR:

Q Did you hear from anyone at any time it had gone to Haldeman or anything like that had happened to it?

A No, not until he showed me this.

Q Did Colson tell you where he got the letter?

A No, he was just very upset.

Q Did he indicate one way or the other about whether the President had seen it?

A He didn't, but I gather he hadn't.

Q How did you gather that?

A Had he seen it I think there would have been some comment to that effect.

Q Now how soon after sending this letter did you talk to Colson?

A About two days before Christmas, the 23rd of December, the 22nd or 23rd of December.

Q Was that on the phone or personal meeting?

A No, he asked me to come back and see him.

Q You went back to see him?

A Yes.

Q When you say went back to see him --

A Came from California to Washington.

Q He called you in California?

A His secretary did.

Q I would just like to explore this a bit. Mr. Colson said come back to see me, and you automatically went, or was there something special?

A He said it is very important that I talk to you. That is what his secretary said. I said all right, but it's

Christmas time and I don't want to be stuck in Washington.

Q When you got to his office, he was very angry?

A Yes.

Q In the course of that conversation did you talk about the substantive problem of action on the Tariff Commission's recommendations?

A Well, I said I thought there had been an unnecessary delay and the case was meritorious and there was no reason for it to be held up by bureaucracy in the White House and that I was sorry if I offended him by doing it, but there was no action, and I felt we had to have some action on it. It had already been approved unanimously by the Tariff Commission. It was just a ministerial act that was needed and no reason to hold it up.

Q Did he say why in the heck did you put a mention of money in a letter to the President?

A He was critical of that. He was very critical of that.

Q Can you recall more precisely what he said?

A He used some pretty strong language and said you shouldn't have written a letter like that. I said all right, I agree, but we just couldn't seem to get anybody to listen to us.

Murray Chotiner SSC interview,
December 7, 1973

Typed from indistinct original

MEMORANDUM

To: File
From: Donald G. Sanders
Date: December 7, 1973
Subj: Murray Chotiner Interview
Milk Fund

Murray Chotiner was interviewed today in his office at 1701 Pennsylvania Avenue, Washington, D.C., telephone 298-9030. Attending were Donald G. Sanders, Alan Weitz, and Chotiner.

From January 1970 to March 1971, Chotiner was Special Counsel to the President. Previously, he was General Counsel to the Special Representative for Trade Negotiations in the White House. In March 1971, he became of counsel for Reeves & Harrison.

Chotiner said his first contact with the milk industry was in 1970 at which time he met Parr and Nelson. He was introduced by Harrison. He learned the dairy people were going to assist the 1970 candidates. Harrison knew that Chotiner was serving as the White House liaison with the 1970 candidates. Chotiner thinks Parr and Nelson may have been on their way to see Harry Dent in an adjoining office. Chotiner didn't discuss with them any details of the contributions. Chotiner knew that Colson had responsibility for groups and organizations.

Chotiner was not a party to any meetings in late 1970 between the dairy people and Colson and associates. Harrison told Chotiner recently that Parr and Nelson met with Colson (Harrison didn't attend), at which time Parr was supposed to have said that dairy farmers were not being treated properly; that they were for the President and wanted to help him. There was also talk of \$1,000,000 or \$2,000,000 to be contributed to the campaign. Parr told Harrison of this talk. Parr said Colson said there couldn't be any quid pro quo.

In 1971-1972, Colson showed Chotiner the Billings letter which he had in his safe. Chotiner was probably talking to Colson about the milk industry troubles with the Department of Agriculture. One trouble was the milk products imports, and one must have been the milk price

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WASHINGTON, D.C. 20540

United States Senate

SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES
(ESTABLISHED BY H.R. 13500-1000)
WASHINGTON, D.C. 20540

RECEIVED
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OFFICE OF THE CLERK
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In 1971-1973, Colson showed Chotiner the Willmarz letter which he had [redacted] the milk products market, and it was [redacted] the milk price

SENATE SELECT COMMITTEE ON PRESIDENTIAL CAMPAIGN ACTIVITIES

AFFIDAVIT

District of Columbia
City of Washington

I, Alan S. Weitz, a resident of Washington, D.C., being duly sworn, hereby depose and say as follows:

1. I have been assistant counsel to the Senate Select Committee on Presidential Campaign Activities from September 24, 1973 to the present.

2. In the course of the Committee's investigation, Mr. Donald Sanders, Deputy Minority Counsel, and I interviewed Mr. Murray Chotiner on December 7, 1973, and Mr. David Dorsen (Assistant Chief Counsel), Mr. Dennis Summers (Assistant Counsel), Mr. Robert Silverstein (Assistant Minority Counsel) and I interviewed Mr. Chotiner, again, on December 10, 1973. On the day of the first interview, Mr. Sanders wrote a memorandum summarizing the substance of the interview. On the day of the second interview, I wrote a memorandum summarizing the substance of the interview.

3. On January 24, 1974, Mr. Dorsen advised me that he had telephoned Mr. Chotiner's office to arrange to obtain sworn testimony in executive session before the Committee on the subjects of the interviews, and was advised by Mr. Chotiner's secretary that he had been in a serious automobile accident the preceding day. Mr. Chotiner died on January 30, 1974.

4. I am executing this affidavit in order to preserve, in the most reliable form, the substance of Mr. Chotiner's account related to us of relevant events. To this end, (1) Mr. Sanders and I reviewed the December 7, 1973 memorandum; (2) I caused my December 10, 1973 memorandum to be retyped on Committee letterhead stationery to correct any typographical errors, to spell out certain names and to rewrite certain cryptically-phrased sentences in the original December 10 memorandum. I did not alter the substance of the earlier memorandum; and (3) I showed the retyped December 10 memorandum to Messrs. Dorsen, Summers and Silverstein.

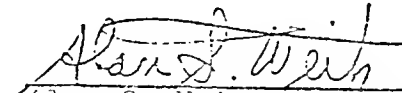
5. Mr. Sanders and I agree that the December 7 Sanders memorandum is a true and accurate account of the substance of the December 7 interview with Mr. Chotiner. Messrs. Dorsen, Summers, and Silverstein also agree that the December 10 memorandum is a true and accurate account of the substance of the interview with Mr. Chotiner of that date.

Affidavit
Page 2

6 Attached to this Affidavit are the following:

Exhibit A: copy of the December 7, 1973 memorandum from Donald G. Sanders to the File re: Murray Chotiner Interview;

Exhibit B: the retyped December 10, 1973 memorandum from Alan Weitz to the File re: Second Chotiner Interview.



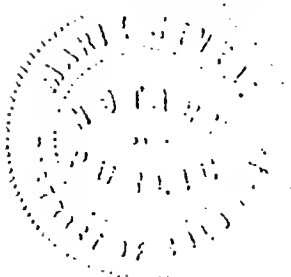
Alan S. Weitz

Subscribed and sworn to before me
this 27th day of February, 1974.



Notary Public

My Commission Expires 10/31/78.



7. The President, on December 31, 1970, by Proclamation Number 4026 established quotas totaling in excess of 25,000,000 pounds for three of the products and in excess of 400,000 gallons for the fourth. It had been previously reported to the White House that any modification from the Tariff Commission's recommendation of zero quotas on three items and 100,000 pounds on another would be viewed on the Hill as a "slap in the face" by the dairy people.

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Imports of Dairy Products

Proclamation 4026, December 31, 1970

PROCLAMATION AMENDING AND CORRECTING PART 3 OF THE APPENDIX TO THE TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE IMPORTATION OF AGRICULTURAL COMMODITIES

*By the President of the United States of America
a Proclamation*

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), limitations have been imposed by Presidential proclamations on the quantities of certain articles which may be imported into the United States in any quota year; and

WHEREAS, in accordance with section 102(3) of the Tariff Classification Act of 1962, the President by Proclamation No. 3548 of August 21, 1963, proclaimed the additional import restrictions set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

WHEREAS, the import restrictions on certain dairy products set forth in part 3 of the Appendix to the Tariff Schedules of the United States as proclaimed by Proclamation No. 3548 have been amended by Proclamation No. 3558 of October 5, 1963; Proclamation No. 3562 of November 26, 1963; Proclamation No. 3597 of July 7, 1964; section 88 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 950); Proclamation No. 3709 of March 31, 1966; Proclamation No. 3790 of June 30, 1967; Proclamation No. 3822 of December 16, 1967; Proclamation No. 3856 of June 10, 1968; Proclamation No. 3870 of September 24, 1968; and Proclamation No. 3884 of January 6, 1969; and

WHEREAS, pursuant to said section 22, the Secretary of Agriculture advised me there was reason to believe that the articles, for which import restrictions are hereinafter proclaimed, are being imported, and are practically certain to be imported, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS, under the authority of said section 22, I requested the United States Tariff Commission to make an investigation with respect to this matter; and

WHEREAS the United States Tariff Commission has made an investigation under the authority of said section

22 with respect to this matter and has reported to me its findings and recommendations made in connection therewith; and

WHEREAS, on the basis of such investigation and report, I find and declare that the articles, for which import restrictions are hereinafter proclaimed, are being imported and are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS I find and declare that for the purpose of the first proviso of section 22(b) of the Agricultural Adjustment Act, as amended, the representative period for imports of such articles is the calendar years 1967 through 1969; and

WHEREAS, on the basis of such investigation and report, I find and declare that the imposition of the import restrictions hereinafter proclaimed is necessary in order that the entry, or withdrawal from warehouse, for consumption of such articles will not render or tend to render ineffective or materially interfere with the price support program now conducted by the Department of Agriculture for milk and butterfat, or to reduce substantially the amount of products processed in the United States from domestic milk and butterfat; and

WHEREAS I find and declare that the allocation of shares of the import quotas proclaimed herein among the countries of origin shall be based upon the proportion of such articles supplied by such countries during the twelve months July 1969 through June 1970, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned; and

WHEREAS it has been determined advisable, in order to carry out the intent of the import restrictions proclaimed pursuant to said section 22 with respect to articles for which licenses are required, that the Secretary of Agriculture be authorized to adjust, within the aggregate quantity of any such article permitted to be entered from all countries during a calendar year, the quantities of any such article which may be entered from particular countries of origin;

WHEREAS the Secretary of Commerce has advised me that, due to a processing error, the published figures for the importation during the calendar year 1967 of articles originating in Iceland, on which the import restriction of such articles set forth in item 950.100 of Part III of the Appendix to the Tariff Schedules of the United States was based, understated actual imports from that country for 1967 by 89,000 pounds; and

WHEREAS, in order to carry out the Presidential intent that such import restriction should be based on the level of imports of such articles from Iceland during the calendar year 1967, the figure in the quota quantity column opposite Iceland in item 950.10D of Part III of the Appendix to the Tariff Schedules of the United States should be corrected by increasing the amount by 69,000 pounds;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that:

1. Part 3 of the Appendix to the Tariff Schedules of the United States is amended as follows:

(a) Headnote 3(a) is amended as follows:

(I) Subdivision (i) is amended by changing the item number "950.15" in the first sentence to "950.16" and by revising the last sentence to read as follows:

"No licenses shall be issued which will permit entry during the first six months of a quota year of more than one-half of the quantities specified in the column entitled 'Quota Quantity' for any of the articles subject to the quotas provided for in items 950.07 through 950.10E, 950.15, and 950.16."

(ii) In subdivision (iii) the phrase "items 950.10B, 950.10C, and 950.10D" is changed to read "items 950.10B through 950.10E".

(3) A new subdivision (iv) is added which reads as follows:

"(iv) Notwithstanding any other provision of this part, if the Secretary of Agriculture determines that, in the case of any article for which licenses are required by subdivision (i) hereof, a quantity specified in the column entitled 'Quota Quantity' opposite the name of any country is not likely to be entered within any calendar year, he may by regulation provide with respect to such article for the adjustment for that calendar year, within the aggregate quantity of such article permitted to be entered from all countries during such calendar year, of the quantities of such article which may be entered during such year from particular countries of origin."

(b) Item 950.10E is added following item 950.10D, which reads as follows:

950.10E Cheese, and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, part 4, schedule 1, except articles within the scope of other import quotas provided for in this part; if shipped otherwise than in pursuance to a purchase, or if having a purchase price under 47 cents per pound;

Country of Origin	Quota Quantity (In pounds)
Denmark	6,660,000
United Kingdom	791,000
Ireland	756,560
West Germany	100,000
Poland	385,600
Australia	123,600
Iceland	64,300
Other	None

(c) Items 950.16, 950.17, and 950.18 are added following item 950.15, which read as follows:

950.16 Chocolate provided for in item 156.30 of part 10 and articles containing chocolate provided for in item 182.95, part 15, schedule 1, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection):

Country of Origin	Quota Quantity (In pounds)
United Kingdom	930,000
Ireland	3,750,000
Other	None

950.17 Animal feeds containing milk or milk derivatives, classified under item 184.75, subpart C, part 15, schedule 1:

Country of Origin	Quota Quantity (In pounds)
Ireland	12,060,000
United Kingdom	185,000
New Zealand	3,930,000
Australia	125,000
Other	None

950.18 Ice cream, as provided for in item 118.25 of part 4, subpart D, schedule 1:

Country of Origin	Quota Quantity (in gallons)
Belgium	243,650
New Zealand	155,680
Denmark	3,450
Netherlands	27,600
Jamaica	950
Other	None

(d) The figure in the quota quantity column opposite "Iceland" in item 950.10D is corrected to read "649,000".

2. Articles which were exported to the United States on a through bill of lading, or which were in bonded warehouse, but not entered, or withdrawn from warehouse, for consumption prior to the effective date of this proclamation, shall not be denied entry under the import restrictions herein proclaimed. Notwithstanding headnote 3(a) (i) of part 3 of the Appendix to the Tariff Schedules of the United States, import licenses shall not be required for the entry into the United States during the first six

months of the calendar year 1971 of articles subject to the quotas provided in items 950.10E and 950.16.

3. The provisions of this proclamation shall become effective upon publication in the Federal Register.

IN WITNESS WHEREOF, I hereunto set my hand this thirty-first day of December, in the year of our Lord nineteen hundred and seventy and of the Independence of the United States of America the one hundred and ninety-fifth.

RICHARD NIXON

[Filed with the Office of the Federal Register, 12:21 p.m., December 31, 1970]

International Financial Institutions Bill

Statement by the President on Signing the Bill Into Law. December 31, 1970

I am today signing H.R. 18306—the international financial institutions bill—although it only partially meets my recommendations.

I welcome that part of the bill which approves the \$1,540 million increase in the United States quota in the International Monetary Fund as part of a general increase in Fund quotas. This is a major step. The general quota increase will enable the Fund to meet its important responsibilities for providing adequate credit facilities to support expanding world trade and capital movements. Our own quota increase permits the United States to maintain its leadership role in the Fund, and also takes the first step towards enabling us to enjoy the full benefits of the Special Drawing Rights allocation to be made on January 1, 1971.

Similarly, I welcome the authorization for an increase in our World Bank capital subscription. The United States can now participate fully in making available to the Bank \$2 billion of subscriptions from other countries in addition to our own increase of \$246 million. The increase will maintain our relative voting position in the Bank. It will be of considerable help to the Bank in meeting its expanded program of assistance to the developing countries by expanding the base on which it can borrow in private capital markets around the world, and by adding a substantial amount of paid-in capital immediately available to the Bank.

Unfortunately, the legislative situation did not permit action on my request for \$100 million for the Special Funds of the Asian Development Bank. We must not allow further delay to be interpreted as lack of U.S. support for the Bank at a time when it is coming to play an essential role in encouraging peaceful development in Asia. This Bank, the result of an Asian initiative and managed primarily by Asians, is a major force for peaceful and cooperative development. Six countries have already contributed

to the Special Funds in anticipation of a United contribution. Failure to act early in the next session the Congress would be a serious setback to the ability to obtain funds from other donors and a strong, long-range, concessional lending facility. Accordingly, I wish to stress that I will ask the 92d Congress to take prompt action to provide a United States contribution of \$100 million to the Bank's Special Funds.

With respect to the Inter-American Development Bank, H.R. 18306 meets my request to provide an expansion over \$200 million in the United States subscription to the Bank's ordinary capital. This desirable step will strengthen the Bank's capacity for conventional lending.

However, I regret that H.R. 18306 authorizes payment and appropriation of only \$100 million for replenishment of the resources of the Bank's Fund for Special Operations, an amount representing the first portion of a planned \$1 billion contribution over a 3-year period. The bill authorizes the U.S. Governor to vote in favor of a pending resolution of the Bank which contemplates the full contribution will be available on schedule, in accordance with the legislative action the U.S. Governor will cast his votes in favor of the resolution.

Further action by the Congress will be necessary to enable the United States to conclude the subscription procedure envisioned by the resolution, and I will urge the 92d Congress to take action to that end. Full implementation of this replenishment of the Fund for Special Operations will enable the Bank to continue to expand its role as the hemisphere's major instrument for promoting development financing.

As I indicated in my foreign aid reform message of September 15, international institutions can and should play a major role in the funding of development assistance. I have therefore proposed that the United States channel an increasing share of its development assistance through these institutions as rapidly as practicable. The institutions considered in H.R. 18306 are among the most important to this effort. I therefore welcome the authorization contained in H.R. 18306, but regret its failure to fully meet my requests and urge that the 92d Congress take early action to do so.

NOTE: As enacted, the bill (H.R. 18306) is Public Law 91-505 approved December 30, 1970.

Coal Mine Disaster in Kentucky

Statement by the President. December 31, 1970

The coal mine explosion which struck yesterday in the mountains of Kentucky also struck at the hearts of all Americans. On their behalf, I extend our deepest sympathy to the families and friends of those who lost lives in this tragic accident.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

October 13, 1970

*secret
to George
Bell*
sent 10/15

MEMORANDUM TO: JOHN WHITAKER
FROM: DICK BURRESS *DB*
SUBJECT: Tariff Commission Recommendation on Quotas
for Dairy Imports.

As I indicated in our conversation, Henry Houthakker appears to have the lead with respect to this matter. He states that it is held up pending obtaining additional information from some foreign countries through the State Department. In all likelihood, the recommendations will be modified somewhat before they are forwarded on for Presidential action.

I have checked on the Hill and the feeling there is that if we are going to implement the recommendations in its entirety and just as it was forwarded by the Tariff Commission that we should do so prior to the election for it could help some of our candidates in Wisconsin and Minnesota. If on the other hand, we are going to modify it in any respect whatsoever then we would be wise to hold it until after the election. Any modification would be viewed as a slap in the face by the dairy people.

Until such time as final action is to be taken in this matter, I do not believe any further reply to Congressman Steiger is required. However, it would be a good idea to give the Congressman some advance notice of the final action whatever that may be, prior to its general release.

8. During late 1970 and early 1971 the dairy industry actively sought Congressional support and action in its effort to obtain an increase in the milk price support level.

In February and March of 1971 approximately 100 Senators and Congressmen wrote the Secretary of Agriculture to urge that the support price be increased. Most wanted the price raised to 90 percent of parity. Some asked that the price be raised to at least 85 percent of parity.

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Letters and telegrams to the Secretary of Agriculture transmitted by the White House to the Judiciary Committee and noted at Book VI, Part 1, Paragraph 19.	

Harold Nelson testimony, SSC
Executive Session, December 18,
1973, 117-120
Retyped from indistinct original

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with Mr. Colson.

Mr. Weitz. Did you meet with all of those individuals?

Mr. Nelson. Yes.

Mr. Weitz. Who was present at those meetings?

Mr. Nelson. The various people.

Mr. Weitz. Was Mr. Parr generally present at those meetings?

Mr. Nelson. Generally, yes.

Mr. Weitz. Mr. Harrison?

Mr. Nelson. Yes.

Mr. Weitz. Mr. Hillings? Was Mr. Hillings present at all those meetings?

Mr. Nelson. Mr. Hillings may have been present one time when we met with Secretary Hardin, I don't really recall that he was, but I don't believe he was ever present when we met with any of these other people.

Mr. Weitz. And at these meetings, you presented various dates to them with respect to the position of the dairy co-ops?

Mr. Nelson. What you might call, mostly unwritten views [unreadable] and arguments, and also some written papers on the subject.

Mr. Weitz. And did you, during this period late 1970, the first several months of 1971, mount an effort or organize to obtain Congressional support?

Mr. Nelson. Yes, we did.

Retyped from indistinct original

Harold Nelson testimony, SSC
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Mr. Weitz. How did you go about doing that?

Mr. Nelson. Well, the Congressional effort, you understand, wasn't an AMPI effort alone. This was an effort that I would say the nearest thing to what you might call at least figuratively speaking, the head of this was the National Milk Producers Federation which enlisted the aid of its -- or attempted to enlist the aid of all of its members.

The prime movers in this effort, I would say, were AMPI, Mid-America, and Dairymen, Inc. Those were the prime movers. We also had, as I recall, one prime opponent to it, initially, and that was another cooperative Land-O-Lakes, which is legally a cooperative, but has a different philosophical approach to the whole thing than these other marketing groups. And so this support was pretty wide-spread throughout the United States, as far as dairy cooperatives were concerned.

And their members, or representatives, would call on their respective Congressmen and Senators asking them to co-author a bill setting the supports at 90 percent.

Mr. Weitz. Now what time period are we talking about? The first decision by the Secretary of Agriculture, not raising price supports, was March 12. Would you have begun this effort let's say a month or two months before that time?

Mr. Nelson. I would say at least that.

Mr. Weitz. At least a month or two months?

Mr. Nelson. At least that.

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Executive Session, December 18,
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Mr. Nelson. So it would be fair to say that throughout the early part of 1971, the first two and a half, three months of 1971, you were meeting both with representatives of the Administration, and also with the various Congressmen and so forth, to obtain their support, in contacting whoever they felt was appropriate in order to try to obtain an increase, and also to perhaps solicit their support for a bill to raise the support level?

Mr. Nelson. You're talking about "you", you're not using the personal pronoun, you're using the whole collective effort? Yes, that's right.

Mr. Weitz. Was it contemplated, let's say, in February or March of 1971, that a bill would be, or you hoped, would be introduced into Congress to raise the support level?

Mr. Nelson. I believe it was before that.

Mr. Weitz. So part of this whole strategy was both to approach the Administration pretty much from the outset in obtaining an Administrative increase if possible, but also to obtain Congressional support and possibly Congressional action?

Mr. Nelson. Yes.

Mr. Weitz. Did you communicate your information, or the fact that you were making this effort, this Congressional effort to anyone in the administration?

Mr. Nelson. I don't recall any specific communication, but it was no secret. There wasn't anything furtive about the

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Harold Nelson testimony, SSC
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effort with Congress. It was a well-known, well-publicized
fact.

Mr. Weitz. Let's go off the record.

(Discussion off the record.)

(A brief recess was taken.)

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9. Congressional leaders made their views known to Administration officials in several private conversations. Congressman Mills urged Clark MacGregor on at least six occasions in late February and early March to urge the President to raise the support price. Congressman Mills telephoned the Director of the Office of Management and Budget, George Shultz, with the same request. Mr. Shultz sent a memorandum to John Ehrlichman indicating the substance of Congressman Mills request for a rise in the support level.

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THE WHITE HOUSE

WASHINGTON

March 5, 1971

MEMORANDUM FOR:

JOHN EHRLICHMAN
GEORGE SHULTZ

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FROM:

CLARK MacGREGOR

SUBJECT:

Discussion on Dairy Problems

I have before me Don Rice's four-page memo to Messrs. Shultz and Ehrlichman dated March 4th. At the bottom of Page 2 Don Rice states that Representative Al Quie (R-Minn) "strongly opposes an increase in the price support level at this time." This is not correct. On the basis of several personal conversations, the latest being late yesterday, what is correct is that Al Quie does not feel that it is necessary or advisable not to announce support levels at 85% of parity. Al Quie would be seriously embarrassed in his district were it to become known that he strongly opposes the 85% position taken by Speaker Albert and Congressmen Mills and Byrnes. What Al said to me was, "The Land O'Lakes position is a sound one, but I am not saying that for publication."

On Page 4 of the Rice memo it is stated, "Clarence Palmby believes strongly that it [the Rice-recommended package] would satisfy Wilbur Mills." This is not correct. Wilbur Mills has urged me more than a half a dozen times in the last three weeks to urge the President to announce the 85% of parity price support level; the latest Mills appeal to me was by phone late in the afternoon of March 4th.

cc: Don Rice
Pete Peterson
John Whitaker

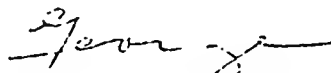
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 4, 1971

MEMORANDUM FOR JOHN EHRLICHMAN

Re: Telephone Call from Wilbur Mills this
afternoon re price supports on milk.

He called to inquire about the situation and to push for a prompt decision. He clearly wants to see the support price raised and expressed his doubts about the estimates of excess supply that would be created by that move. He states his view that the Department always over-estimates the production increase and under-estimates demand.



George P. Shultz

10. Following Secretary Hardins announcement, March 12, 1971, that the support level would not be raised for the 1971-72 marketing year, intense lobbying began. On March 16, 1971, Richard T. Burress reported to John Ehrlichman that the decision had been hit by partisan attacks and that legislation would be introduced which would require that the price support level for milk be raised to 85 percent of parity, that it would have the support of Speaker Carl Albert and Wilbur Mills and that it would likely pass.

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10a Memorandum dated March 16, 1971, from Richard T. Burress to John Ehrlichman with routing memorandum, dated March 18, 1971, from John Ehrlichman to John Whitaker.....	128

THE WHITE HOUSE
WASHINGTON

Date March 18

For John Whitaker

From John Ehrlichman

THE WHITE HOUSE

WASHINGTON

March 16, 1971

MEMORANDUM FOR JOHN EHRlichMAN

FROM: RICHARD T. BURESS

SUBJECT: Price Support for Milk

As you know, on Friday March 12, 1971, Secretary Hardin announced that the price support level for milk would not be changed from its present \$4.66 per hundred weight, a level which is equal to 81 percent of parity. This announcement was made despite intense pressure from certain dairy interests, spearheaded by the various Dairy Coops, who wanted the price support increased to 85 percent of parity.

The decision to hold the line and not increase the price support level was based upon several factors. Chief among these was the very real concern that an increase at this time could lead to a serious surplus situation by 1972 as well as an increase in the retail price of milk.

As expected, this decision has been hit by partisan attacks and an effort has been made to require, through legislation, an increase in the price support. Senator Humphrey has called for an increase in the support level to 90 percent. (See March 4, 1971 Congressional Record S2478) And Congressman Obey included the refusal to raise the milk price support level in his list of Anti-Farmer actions by the Administration. (See March 15, 1971 Congressional Record H1514.)

Hyde Murray has advised that legislation would be introduced which would require that the price support level for milk be raised to 85 percent of parity. Apparently this legislation will be introduced by Congressman Neal Smith and will have the support of the Speaker,

John Dyrnes, and probably Wilbur Mills. The odds that it can be favorably considered and passed by both Houses of Congress are very good. With this in mind, Page Belcher is requesting a meeting at the Agriculture Department at noon, Wednesday, March 17, 1971 to discuss the situation and to plan a course of action. This could be an important meeting and I believe the White House should be represented.

At the present time, Page is committed and will probably stand firm against this legislation if he is given a strong assurance that the Administration is opposed to the legislation and will give him the support he needs. He is presently joined in this opposition by Al Quie and Paul Findley. In addition, Chuck Teague and George Goodling, both members of the House Agriculture Committee, probably can be counted on to oppose.

On the Senate side the picture is a little murkier. Bob Dole is on record as being opposed to an increase and several other Senators should be firm on this point. However, as soon as possible, careful soundings should be taken to determine the extent of this support.

Conclusion

With the proper planning and appropriate follow-through, we should be able to make a good case for the action taken by Secretary Hardin and against the proposed legislative increase. Appropriate Minority Views, solid testimony and dissenting votes in both the Senate and House Agriculture Committees can be obtained. Also, a good record can be made on the House and Senate Floors as well as in the Rules Committee. If this is done, then, even if the legislation is passed and a Presidential veto is required, the veto should be sustainable. Moreover, the record would be absolutely clear that the opposition and the veto was required, not to hurt the farmers, but to protect against surpluses and to prevent further increases in the price of milk.

11. In the House, 28 separate bills were introduced between March 16th and March 25th to set the support price at a minimum of 85% and a maximum of 90% of parity. 29 Republican and 96 Democratic members introduced or co-sponsored this legislation.

In the Senate, 28 Senators introduced legislation on March 16, 1971, that would have required support levels at a minimum of 85 percent of parity. Of the bill's sponsors, one was a Republican and 27 were Democrats. Three days later, Senator Hubert Humphrey sponsored his own bill seeking higher parity.

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1971 CONGRESSIONAL BILLS ON DAIRY PRICE SUPPORTSHOUSE OF REPRESENTATIVES

The following bills are substantially identical to each other:

<u>Date</u> <u>Introduced</u>	<u>Bill</u> <u>Number</u>	<u>Sponsor(s)</u>	<u>Purpose</u>
3/16/71	H.R. 6188	Smith (D-Iowa) Edmondson (D-Okla) Hungate (D-Mo) Roush (D-Ind) Jones (D-Tenn) Teague (D-Tex) Steiger (R-Wis) Burton (D-Calif) Hamilton (D-Ind) Griffin (D-Miss) Burlison (D-Tex) Burlison (D-Mo) Fraser (D-Minn) Ullman (D-Ore) Shipley (D-Ill) Randall (D-Mo) Price (D-Ill) Kuykendall (R-Tenn)	To support the price of manufacturing milk at a level not more than 90% nor less than 85% of the parity price for the marketing year 1971-72, as the Secretary determines is necessary in order to assure adequate supply.
3/17/71	H.R. 6248	Roncalio (D-Wyo)	"
3/17/71	H.R. 6249	Smith (D-Iowa) Poage (D-Tex) Patman (D-Tex) Sisk (D-Tex) Obey (D-Wis) Sikes (D-Fla) Steed (D-Okla) Culver (D-Iowa) Kyl (R-Iowa) Bergland (D-Minn) Abbitt (D-Va) Abourezk (D-S.Dak) Kastenmeier (D-Wis) Fascell (D-Fla) Broyhill (R-N.C.)	"
3/17/71	H.R. 6250	Smith (D-Iowa) Casey (D-Tex) Hansen (D-Wash) Shriver (R-Kan) Pickle (D-Tex) Pryor (D-Ark) Blanton (D-Tenn) Flowers (D-Ala) Fulton (D-Tenn) Hammerschmidt (R-Ark) Wright (D-Tex) Aspin (D-Wis) Thone (R-Nebr) Daniel (D-Va) Dorn (D-S.C.) Fisher (D-Tex) Edwards (D-La)	"

more

<u>Date Introduced</u>	<u>Bill Number</u>	<u>Spensor(s)</u>	<u>Purpose</u>
3/17/71	H.R.6289	O'Konski (R-Wis)	To support the price of manufacturing milk at a level not more than 90% nor less than 85% of the parity price for the marketing year 1971-72, as the Secretary determines is necessary in order to assure adequate supply.
3/18/71	H.R.6412	Zwach (R-Minn)	"
3/18/71	H.R.6425	Harvey (R-Mich)	"
3/18/71	H.R.6443	Smith (D-Iowa) Abernethy (D-Miss) Stubblefield (D-Ky) Purcell (D-Tex) Matsunaga (D-Hawaii) Vigorito (D-Pa) Denholm (D-S.Dak) Martin (R-Nebr) Roberts (D-Tex) Halpern (R-N.Y.) Zablocki (D-Wis) McFall (D-Calif) Montgomery (D-Miss) Johnson (D-Calif) Schwengel (R-Iowa) Anderson (D-Tenn) Watts (D-Ky) Perkins (D-Ky) Riegler (R-Mich) Whitehurst (R-Va)	"
3/23/71	H.R.6534	Hull (D-Mo)	"
3/23/71	H.R.6553	Natcher (D-Ky)	"
3/23/71	H.R.6559	Quillen (R-Tenn)	"
3/23/71	H.R.6619	Gross (R-Iowa) Scherle (R-Iowa) King (R-N.Y.) Hall (R-Mo)	"
3/23/71	H.R.6621	Jones (D-N.C.) Freyer (D-N.C.) Henderson (D-N.C.) Taylor (D-N.C.) Lennon (D-N.C.)	"
3/23/71	H.R.6632	Long (D-La)	"
3/23/71	H.R.6635	McMillan (D-S.C.)	"
3/23/71	H.R.6647	Sebelius (R-Kan)	"
3/23/71	H.R.6650	Stratton (D-N.Y.)	"

more

<u>Date Introduced</u>	<u>Bill Number</u>	<u>Sponsor(s)</u>	<u>Purpose</u>
3/23/71	H.R.6657	Young (D-Tex)	To support the price of manufacturing milk at a level not more than 90% nor less than 85% of the parity price for the marketing year 1971-72, as the Secretary determines is necessary in order to assure adequate supply.
3/24/71	H.R.6683	Evans (D-Colo) Aspinall (D-Colo)	"
3/24/71	H.R.6691	Hastings (R-N.Y.)	"
3/24/71	H.R.6701	Landrum (D-Ga) Stephens (D-Ga) Brinkley (D-Ga) Stuckey (D-Ga) Thompson (R-Ga) Mathis (D-Ga)	"
3/24/71	H.R.6712	Thompson (D-N.J.)	"
3/24/71	H.R.6727	Nichols (D-Ala.)	"
3/25/71	H.R.6746	Andrews (D-Ala)	"
3/25/71	H.R.6753	Duncan (R-Tenn)	"
3/25/71	H.R.6785	Pryor (D-Ark) Bingham (D-N.Y.) Leggett (D-Calif) Mahon (D-Tex) Melcher (D-Mont) Baker (R-Tenn) Duncan (R-Tenn) Myers (R-Ind) Hillis (R-Ind) Hanley (D-N.Y.) Galifianakis (D-N.C.) Brasco (D-N.Y.) Collins (D-Ill) Alexander (D-Ark) Kee (D-W.Va) Gallagher (D-N.J.) Gonzalez (D-Tex) Begich (D-Alaska) Kyros (D-Maine)	"

The following bills are identical:

3/18/71	H.R.6357	Abbitt (D-Va)	To support the price of milk at 90% of the parity price through purchases of milk and milk products.
3/22/71	H.R.6502	Thomson (R-Wis)	"

more

SENATE

<u>Date Introduced</u>	<u>Bill Number</u>	<u>Sponsor(s)</u>	<u>Purpose</u>
3/16/71	S.1277	Nelson (D-Wis) Mondale (D-Minn) McGee (D-Wyo) Hughes (D-Iowa) Bayh (D-Ind) Burdick (D-N.Dak) Cook (R-Ky) McGovern (D-S.Dak) Stevenson (D-Ill) Eagleton (D-Mo) Tunney (D-Calif) Hartke (D-Ind) Symington (D-Mo) Cranston (D-Calif) Gravel (D-Alaska) Hart (D-Mich) Harris (D-Okla) Muskie (D-Maine) Moss (D-Utah) Proxmire (D-Wis) Allen (D-Ala) Long (D-La) Inouye (D-Hawaii) Hollings (D-S.C.) Fulbright (D-Ark) Sparkman (D-Ala) Eastland (D-Miss) Bentsen (D-Tex)	To support the price of manufacturing milk at a level not more than 90% nor less than 85% of the parity price for the marketing year 1971-72, as the Secretary determines is necessary in order to assure adequate supply.
3/19/71	S.1294	Humphrey (D-Minn)	

#

12. On March 19, 1971, John Whitaker reported to John Ehrlichman that contrary to a vote count of the previous night, Secretary Hardin is convinced there is a 90 percent chance that an 85 percent of parity support bill will pass Congress and that the President should allow himself to be won over to an increase to 85 percent of parity.

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Memorandum, dated March 19, 1971, from John C. Whitaker to John D. Ehrlichman.....	138

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THE WHITE HOUSE
WASHINGTON

March 19, 1971

MEMORANDUM FOR JOHN D. EHRLICHMAN

FROM: John C. Whitaker *JCW*
SUBJECT: Suggested Meeting with Secretary Hardin

I think we should have a prompt meeting with Secretary Hardin today. The prime issue is milk price supports. Contrary to what I reported in the 7:30 meeting this morning on a House count they did last night, Hardin is convinced there is a 90 percent chance that an 85 percent of parity price support for milk bill, sponsored by Carl Albert, will pass Congress. The issue is, if it passes, does the President veto it. Currently, we are playing a bluff game with the dairy people saying the President will have to veto a milk price increase and get credit on the consumer side, but Hardin doesn't think it will stop the bill from passing. He is now of the opinion that when the dairy meeting takes place with the President next Tuesday, the President should allow himself to be won over and go along with the argument of raising the price of milk to 85 percent of parity. This is the key issue and I think you, Shultz, Rice, Colson and I should discuss it with Secretary Hardin.

A secondary reason for the meeting is that Hardin is still hard on the idea that the extension service in some way should be held harmless in the rural revenue sharing bill. He is convinced we can never sell the bill without protecting the extension service, and that by protecting the extension service, we have enough votes to get those people working for us and pass the bill. He said he discussed it with the President, although only briefly in a reception line, and as predicted, the President said, "If you think that is what we ought to do, then we ought to go ahead." The Secretary recognizes that the game isn't played this way and wants an honest discussion with us about it.

cc: George Shultz
Don Rice
Chuck Colson

Add: MacArthur or [unclear]

13. On the morning of March 23, 1971, the President called Secretary of the Treasury Connally. The primary subject of the conversation was an unrelated matter. The latter part of their conversation touched on the fact that the President would be meeting later that morning with the dairymen, the potential effect of a support level increase on consumer prices and that the President wanted a decision that day.

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13 a. Secretary Connally's log, March 23, 1971.....	140
Tape recording of President's statement during telephone conversation between the President and Secretary John Connally, March 23, 1971.....	141
12 b. President's log of contacts with Secretary Connally, March 11, 1971 to May 11, 1971.....	142

CALLERS

PHONE CALLS

	From: The President (10:15)
10:30	From: U.S. & T. Sanders
10:35	To: St. John's Bureau (10:35)
10:55	To: Jim P. Long
11:05	To: O. Winters
11:30	From: Bill Brown (11:30)
11:55	From: Gene Renwick
1:05	From: Marie Welch (1:05)
2:35	From: Jerry Fuchs
3:55	From: Mrs. Bartlett
3:55	To: Mrs. Mitchell (aunt)
4:15	From: Jake Jespersen
4:40	To: C. Brennan
4:45	To: Margaret Martin (aunt)

CALLS

6:05	July - W. H. and Rip Lindberg
4:55	July - Gerald's phone "mish"

TIME RECORD

Friday, March 23.

A portion of the supporting evidence for paragraph 13 consisted of tape recordings of the President's March 23, 1971 meeting with John Connally.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

CONNALLY, JOHN B. SECRETARY OF TSEASURY

3/11/71 cont. mtg *with* *OO* *11:00-11:15*
p lo c / p lo nc bur tlk w / Mrs.

3/16 mtg *with* *OO*
CabMtg CabRm ANE

3/18 p lo c / r lo nc / r lo c *2 minutes - 1 minute mtg / air book*
mtg OO

3/20 p ld nc / p ld c *1 minutes*

3/22 r lo nc, RMW take / r lo c

3/23 p lo c *3 minutes*
mtg *5:05-5:38* OO 5:05 - 5:38
r ld nc AP Butterfield take
RepubLdrshpMtg CabRm

3/25 NSC mtg CabRM

3/26 mtg *with* *OO* *11:00-11:15*

Cabmtg CabRm ANC

3/31 dnr Rsdnce

CONNALLY, JOHN B. SECRETARY OF TSEASURY

4/1/71 mtg *with* *OO* *11:00-11:15*

4/8 CIEP mtg CabRm

4/10 p ld nc / r ld c *with* *OO* *11:00-11:15*

4/13 mtg *with* *OO* *4:05-6:00*

4/14 Swr-in of Chrm. SEC OO

4/15 p lo c *10 minutes*

4/16 mtg *with* *OO* *10:00-10:15*

4/17 Textile Mtg Cab Rm

4/18 p ld nc

4/20 p lo c *10 minutes*

4/22 mtg OO-
photograsph Rose Garden

r lo c *with* *OO* *11:00-11:15*

4/27 mtg *with* *OO* *11:00-11:15*

CabMtg CabRm

4/29 R lo nc ← R ld nc

P ld c

CONNALLY, John B.

Secy of the Treasury

5/4/71 Mtg / GOP ldrshp CabRm

5/4 Mtg *Quad* OvalOfce

5/4 r lo nc

5/4 p lo c *10 minutes*

5/5 OPEN DOOR HOUR / Fed Civ. Serv. Awards

5/5 Mtg *with* *OO* *11:00-11:15*

5/6 Mtg *with* *OO* *11:00-11:15* OvalOfce

5/7 p lo c *8 minutes* OvalOfce

5/8 WH Correspondent's Dnr SheratonPkHtl ANC

5/9 p lo c *10 minutes*

5/10 Brkfst *with* *OO* *11:00-11:15* FmlyDngRm

5/11 Mtg *with* *OO* *11:00-11:15* OvalOfce

5/11 p lo c *10 minutes*

5/11 r lo nc

14. The meeting had been planned and scheduled some months in advance. The President originally invited the dairy leaders during a courtesy telephone call on September 4, 1970, and a ~~courtesy~~ meeting on September 9, 1970. Specific arrangements were begun in January, 1971. The Department of Agriculture obtained a list of the officers and representatives of the major dairy industry groups. A list of potential invitees was forwarded to the White House by Secretary Hardin on January 26, 1971, with his recommendation that a meeting be scheduled. On February 25, 1971, Secretary Hardin was informed that the President had approved the meeting for 10:30 a.m., March 23, 1970.

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14a	Memorandum, dated January 26, 1971, from Secretary Hardin to H. R. Haldeman..... 144
14b	Deposition of David L. Parr taken December 12, 1972 in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 418-72) pp. 51-54. 145
14c	Letter, dated February 25, 1971, from Dwight L. Chapin to Secretary Hardin..... 149

JANUARY 26, 1971

STANDARD FORM NO. 64
OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

TO: H. R. Halderan
Assistant to the President
The White House

SUBJECT: Meeting with President and Leaders of Dairy Industry

On September 4, 1970, I addressed 25,000 members of Associated Milk Producers, Inc., in Chicago, Illinois. At that time, President Nixon talked by telephone with me and with Harold Nelson, President of AMPI, and extended an invitation to Mr. Nelson for the key leaders of that group to meet with him in the White House.

At my suggestion, Marion Harrison and Pat Hillings, as attorneys for AMPI, have submitted the enclosed list of names for such a meeting. I recommend the President invite them for a meeting at the earliest convenient time.

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CLIFFORD W. HARDIN
Secretary

Enclosure

SEC:DEB:ack:amc X0581 1-25-71

CLIFFORD W. HARDIN

Q I understand that.

Especially with all those dairy farmers in town at the same time?

A I don't know about that.

Q Did you attend the meeting with the President at the White House on March 23, 1971?

A Yes.

MR. WILSON: You want to take a five-minute recess?

MR. DOBROVIR: Yes.

(Short recess.)

MR. DOBROVIR: On the record.

BY MR. DOBROVIR:

Q When we recessed, I had just asked you about a meeting at the White House with the President on March 23, 1971.

How was that meeting arranged?

A In 1970, NPI was having an annual meeting in Chicago.

There were efforts to try to persuade the President to come to that meeting. He didn't come.

He did talk, as I understand it -- I wasn't at the meeting in Chicago -- he did talk, as I understand it, with Mr. Nelson in Chicago, and said the kind of thing that he

23

was sorry he couldn't come.

I don't know what he said.

About three days later, well, over the weekend sometime, I got a call from Mr. Nelson.

Q You got a call from Mr. Nelson?

A I believe from Mr. Nelson, saying that -- maybe he told Mr. Nelson. I don't know how that ran.

Anyhow, they were to meet with the President about three days after the annual meeting. This must have been in September of '70.

At that time, the President -- a lot of people had urged him to come, and he had gotten the impression that it was a good meeting, a large, well attended meeting, and he wanted to know when our next one was and that he would make every effort to try to come to the next one.

When was it? And he would like to meet with other people in the dairy industry and to remind Secretary Hardin, just to keep in mind, that he wanted to meet in early 1971 with other people.

So, I don't know when it was set, Mr. Dobrovir, exactly, but that is the first mention I heard of it.

Q Were you told this by Mr. Nelson?

A No.

I was told this by the President.

Q By the President.

You spoke to him personally?

A Mr. Nelson and I were there.

Q This was after the Chicago meeting?

A The 1970 annual meeting of AMPI.

Q You went to Washington?

A Came to Washington.

Q And expressly for the purpose of seeing the
President?

A Yes.

Q And how did that occasion come about?

A I said I don't know. I don't know.

As I was saying, I wasn't in Chicago, so I don't
know how the meeting got arranged.

He did talk, as I understand it, to Mr. Nelson
from some place, wherever he was, while the meeting was going
on.

Q So you and Mr. Nelson flew to Washington to meet
with the President, and now when you met with the President
at that time, did you discuss anything else besides the
question of his setting up a meeting?

A I just remember he got his yellow pad and started

saying, "When is that meeting?"

I was impressed with that.

Q How long did your meeting with him at that time last?

A I don't remember.

Q You don't remember what other subjects were discussed?

A The only thing that impressed me was that he was very complimentary of what he had heard about our annual meeting. That is what we had just had.

And he expressed an interest in meeting some of our people, which we thought was good, and it sounded like he wanted to come to our next meeting, which he ultimately did.

Q Was that the only thing that you talked with the President about at that time?

A I am sure we talked to him about the plight of the dairy farmer because we never missed an opportunity to talk to anybody about that, but I don't remember anything specifically.

Q Do you meet with the President often?

A No.

I don't know of anybody that meets with the President often.

THE WHITE HOUSE
WASHINGTON

February 25, 1971

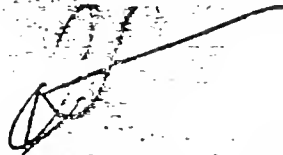
Dear Mr. Secretary:

The President has approved your suggestion that he meet with leaders of the dairy industry and we have set aside thirty minutes at 10:30 a.m. on Tuesday, March 23, for a meeting in the Cabinet Room.

By a copy of this letter, I am asking Mr. John Whitaker to handle the details of the appointment with your office. Also, I would appreciate knowing when you have confirmed this date and time with the dairy leaders.

With best wishes,

Sincerely,



Dwight L. Chapin
Deputy Assistant
to the President

*Confirmed w/
Mason Harrison 3/2/71
11:00 AM
D/C*

Honorable Clifford M. Hardin
Secretary of Agriculture
Department of Agriculture
Washington, D. C. 20250

cc: Mr. Whitaker

15. The President opened the meeting by thanking the dairy leaders for their non-partisan support of Administration policies.

Secretary Hardin then briefly outlined the problems facing the dairymen and asked for their views. The remainder of the meeting was taken up by the dairy leaders pleading their case for a higher support price and discussion among the President, Administration officials and the dairymen regarding the economics of a milk price support increase. No conclusions were reached about the support price. Campaign contributions were not mentioned.

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Tape recording of meeting among the President and dairy representatives, March 23, 1971,	152

The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

16. On the afternoon of March 23, 1971, the President held a meeting with seven Administration officials to discuss the dairy price support problem. The meeting opened with Secretary Connally, at the President's request, outlining the situation. He pointed out that politically the President was going to have to be strong in rural America and that the farmers had many problems and that this was one of the few which the President could do anything about; second, the major dairy groups represent some 100,000 dairymen who are being tapped, labor union style, to amass an enormous amount of money which they were going to use in various Congressional and Senatorial races all over the country to the President's political detriment. Secretary Connally also advised the President twice that he believed a support level increase to be economically sound.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971. . . . 154

The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

17. The discussion then centered on the pending legislation which would require a support level increase. The President stated that he believed such a bill would pass. Secretary Hardin expressed the view that a bill forcing an increase was almost certain to pass and told the President that 150 names were on the bill and that Speaker Carl Albert supported it. Secretary Connally stated that Wilbur Mills also supported it and that it would pass the House beyond any question, Secretary Connally said the move would gain liberal support as it would embarrass the President.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice	
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The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

18. Vetoing such a bill was then discussed. Connally said the dairymen were arguing on Capital Hill such a veto would cost the President Missouri, Wisconsin, South Dakota, Ohio, Kentucky and Iowa in the 1972 election. Hardin said the President would not have any choice but to sign it.

The President then made the judgment that Congress was going to pass the bill and that he could not veto it. The President then adopted a proposal by Connally that a trade-off be made, giving the dairymen an increase in 1971 in return for a promise not to seek an increase in 1972.

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- Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971,	158

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE SECOND PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE,

The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

19. Secretary Hardin then raised the question of the Administration getting credit for the increase. Secretary Connally suggested rather that first the Speaker, Carl Albert, Congressman Wilbur Mills and others be contacted in order to obtain their support, in return, on other legislation. The problem was discussed of how to keep the dairymen from learning of the decision until Congressmen Albert and Mills could be approached but still obtain a promise from the dairymen not to push for an increase in 1972.

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Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, March 23, 1971.....	160

The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

20. At the end of the meeting the President outlined who was to contact Speaker Albert and Congressman Mills and that he understood J. Phil Campbell would contact the dairymen about not seeking an increase in 1972.

Page

Tape recording of meeting among the President, Secretary Hardin, Secretary Connally, John Ehrlichman, George Shultz, John Whitaker, J. Phil Campbell and Donald Rice, -
March 23, 1971, 162

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

The supporting evidence for paragraphs 15 - 20 consisted of tape recordings of the President's March 23, 1971 conversations and meetings with Administration officials and dairy cooperative representatives.

The Committee on the Judiciary heard the tape recording and examined transcripts prepared by the Inquiry staff during the initial presentation regarding dairy matters on June 5, 1974.

21. J. Phil Campbell called Harold Nelson after the meeting and asked him if the Administration did raise the support level would he and the other dairymen "get off our backs" and not ask for more increases, to which Mr. Nelson agreed. Campbell did not tell him of the meeting with the President; did not discuss anything else; and did not tell him not to boycott a Republican fund raising dinner.

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21a Senate Select Committee Executive Session Testimony of J. Phil Campbell, May 31, 1974, pp. 60, 61, 64	164

1 time which would be five fifty Eastern Standard Time which
2 would be the time in Washington on March 23 of 71, there is a
3 record of a phone call from Mr. Phil Campbell to Mr. Nelson
4 with the message to return the call to your home. Is your
5 number Area Code 703-360-5739?

6 Mr. Campbell. Yes. So --

7 Mr. Weitz. That would indicate then that at 5:30 in the
8 afternoon which would have been shortly after the 4:45 meeting
9 you placed a call that did not reach Mr. Nelson.

10 Mr. Campbell. Maybe I didn't. All I know is I placed the
11 call and talked to him. I can't give you the details. I mean
12 you have the records and I will have to accept when it was on
13 there.

14 Mr. Weitz. Do you recall him returning the call at your
15 home that evening?

16 Mr. Campbell. I recall I talked to him. I don't recall
17 under what circumstances.

18 Mr. Weitz. Did you talk to him after dinner?

19 Mr. Campbell. I thought I talked to him at the office.
20 My memory may be wrong on that.

21 Mr. Weitz. You see the records show he was still in Wash-
22 ington that day.

23 Mr. Campbell. I see. I don't know when I talked to him
24 but I placed the call and talked to him but I can't tell you
25 exactly when.

1 Mr. Weitz. Did you have your secretary place the call?

Mr. Campbell. I don't remember how it was done.

3 Mr. Weitz. But it is likely that the only number you
4 would have had in your records would have been his office in
5 San Antonio?

6 Mr. Campbell. That is correct. Yes. Possibly his home.
7 I don't know.

8 Mr. Weitz. But not his hotel room in Washington?

9 Mr. Campbell. No, I recall I had the call placed, I did
10 talk to him but I don't know how or when the call was completed.

11 Mr. Weitz. Could you tell us what you told him on the
12 telephone?

13 Mr. Campbell. Yes. I asked him to -- well I said, now
14 Harold if we do change our mind and do raise the price, will
15 you and the other dairymen stop asking us for prices increases
16 -- well, not price increases but price support increases --
17 because I don't think it is good for the dairymen. Will you
18 get off our backs? And he agreed and said he would.

19 Mr. Weitz. You recall using that language, "get off our
20 backs?"

21 Mr. Campbell. Yes, I asked him to get off our backs and
22 he agreed that if we did raise the price support that he would.

23 Mr. Weitz. Did you indicate that you had met with the
24 President?

25 Mr. Campbell. No.

1 him that it had been made.

2 Mr. Weitz. Did you discuss anything else in the conversation

3 Mr. Campbell. No, that was a very short conversation.

4 Mr. Weitz. Did you ask him not to boycott the Republican
5 fund raising dinner the next night?

6 Mr. Campbell. No, sir, I don't recall even talking to
7 him about that. I don't recall any conversations with him in
8 regard to that fund raising.

9 Mr. Weitz. Did you attend that dinner?

10 Mr. Campbell. No, sir.

11 Mr. Weitz. Were you aware on the 23rd the dinner was
12 going to be held the next evening?

13 Mr. Campbell. I was aware because I got a letter soliciting
14 me to buy a \$1,000 ticket, which I was not financially able to
15 do. I get these letters each year and I have never bought a
16 ticket because I am not financially able to.

17 Mr. Weitz. Were you aware that the dairy co-ops were
18 planning to attend the dinner representatives of the co-op were
19 planning to attend the dinner?

20 Mr. Campbell. I don't know when I knew. I heard after-
21 wards that they were there and I don't know how many tickets
22 they bought or anything about it, but I had nothing to do with
23 their purchasing the tickets.

24 Mr. Weitz. Were you aware that after the March 12 decision
25 they had started to change their minds about attending the

22. Murray M. Chotiner stated in his deposition he did not know in advance of the decision to increase support levels, did not discuss campaign contributions in seeking a support level increase on behalf of the dairymen and did not talk to the dairymen in the context of contributions in return for favorable action.

	Page
22a	Deposition of Murray M. Chotiner taken December 28, 1972, in <u>Nader v. Butz</u> , (D.D.C. 418-72) pp. 10, 11, 21-24..... 168

a proper way.

Q A proper way.

What would a proper way have been?

A What, I do not know, but my assumption is that the Secretary of Agriculture would make the announcement at that point the price support would be paid.

Q Did you have any activities in connection with the price support decision for 1973?

A No, sir.

Q About they --

A Pardon me.

Other than what I said to people in 1971, I was in a sunny-room for 1973, so that's about --

Q About March 1973 when the Secretary of Agriculture announced that he was increasing the price support level, you didn't have any contact with either of them with this question?

A No, sir.

Q All right, so you were never in the Secretary's office and you were never in contact with either of them, might be correct?

A Yes, that's all I know. I was never in the office of either of them.

Q What about the date of the announcement?

A No, sir.

I was urging it be changed.

Q Did the change come as a surprise to you?

A Nothing comes to me as a surprise in Government.

Q Did there come a time when you became apprised of the intention or desire of the dairy farm political trusts TAPE, SPACE and ADEPT to make campaign contributions to the Presidential campaign of Mr. Nixon?

A Yes.

Q When was that?

A My recollection is it was in March of 1971.

Q From whom did you learn this?

A Mr. Harrison.

Q What did Mr. Harrison say to you?

MR. HARRISON: Mr. Dobrowitz, I think you are starting to get into the attorney-client privilege.

MR. DOBROWITZ: Are you making an objection?

MR. HARRISON: Therefore, I make an objection.

BY MR. HARRISON:

Q Mr. Chotiner, what, if anything, did you have to do with contributions from the dairy farm political trusts, TAPE, SPACE and ADEPT, to the Presidential election campaign of Mr. Nixon?

Dairymen, Inc., or SPACE or TAPE or Mid-America or any particular groups.

Q In any of these conversations was mention made of some totals that the dairy people were planning to contribute?

A No, sir.

MR. DOBROVIR: I have no further questions.

MR. GOLDBLOOM: I have a few.

EXAMINATION BY COUNSEL FOR THE DEFENDANTS

BY MR. GOLDBLOOM:

Q Mr. --

THE WITNESS: Mr. Dobrovir, when I say no, that is my best recollection. I do not think any total amount was mentioned.

MR. DOBROVIR: Yes.

BY MR. GOLDBLOOM:

Q In connection with your efforts to seek a favorable result on the dairy price support level on behalf of your clients, you spoke to Mr. Whittaker and Mr. Colson and Mr. Caslin and Mr. Ehrlichman on the White House Staff.

In the course of any of these conversations, was the subject of political contributions by the dairy industry figure in your conversations?

A No, sir.

Q Did you at any time during those conversations suggest the possibility that political contributions might be made by the dairy industry?

A No, sir.

We talked about support and help for the farmers and not support or help for the campaign by way of contributions.

Q So, therefore, political contributions of that sort did not figure in any of the discussions in any way?

A I won't go that far.

I would say any time you do something for someone, it reacts favorably at the ballot box.

Of course, I had in mind at the time the question of support for the Administration in the coming election and the farm states, and if you don't help the farmer, you don't get their support.

Traditionally, the farmers have supported Republican Administrations except at such time when they felt their economic well-being was not being looked after to their satisfaction.

Q Was there any discussions about cash contributions or funds?

A No, definitely not.

MR. GOLDBLOOM: No further questions.

MR. DOBROVIR: Let me follow up.

FURTHER EXAMINATION BY COUNSEL FOR THE PLAINTIFFS

BY MR. DOBROVIR:

Q In your conversations with Messrs. Ehrlichman, Colson, Whittaker and/or Cashin, was the question of political support in terms of votes in the election from farmers discussed?

A Oh, I undoubtedly must have made a remark as to the effect that if you hurt the farmers, you can't expect to get their support, whereas if you help the farmers, you probably have a good chance of getting their support.

As I said, the farm states normally support Republican Administrations.

It may follow if you -- that you don't kick a person in the shins and expect him to say thank you.

Q In your conversations with the dairy people with respect to campaign contributions, was there any discussion of the fact that caused this decision to come out favorably after all that the dairy farmers should support with contributions to the Nixon campaign?

A I don't understand your question.

If I understand it correctly, I resent the question.

Under no circumstances, under no conditions would I talk to any dairy person or anyone else along the lines of their making a campaign contribution in return for any favorable action that may have been extended toward that individual or group.

The answer is unequivocally no.

Q You testified the first time you talked to anybody from the dairy groups about political campaign contributions was March 24th with Mr. Nelson.

I had earlier asked whether -- or what was the first time you heard the dairy groups wished to make political contributions.

I would like to ask you whether that was the first time you heard from anyone from the dairy groups that they wanted to make political contributions?

A The way the question was worded before, I don't think that was the answer that applied to that.

I had known before that there was going to be a dinner coming up, and Mr. Harrison had talked to me about the possibility of tables that would be purchased.

Now, from that standpoint, if you are referring to political contributions, yes, I had heard of the possibility before the night of the dinner.

23. Herbert W. Kalmbach has testified that as of March 25, 1971 he was unaware of any price support matter and that he does not recall any suggestion or indirect suggestion of a relationship between campaign contributions and governmental actions affecting the dairy industry by members of the dairy industry or their representatives or members of the White House staff. Harold S. Nelson, David L. Parr and Marion Edwyn Harrison have all testified to the effect that there was no quid pro quo relationship between a milk price support increase and campaign contributions.

	Page
23a	Depositions of Herbert W. Kalmbach, taken December 13, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 55, 56, 110-112,..... 176
23b	Deposition of Herbert W. Kalmbach taken April 30, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 10-15, 19-22, 46..... 181
23c	Deposition of Harold S. Nelson taken February 7, 1973, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72), pp. 76, 77... 192
23d	Deposition of David L. Parr taken December 12, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 418-72), pp. 152, 153..... 194
23e	Deposition of Marion Edwyn Harrison taken December 27, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 418-72), pp. 113-114,..... 196

1 Q Was it your impression that they had forgotten
2 about it?

3 A Well, I don't know. I just don't have that
4 impression. I don't remember that anyone ever did.

5 Q Is that unusual in the field of political fund-
6 raising for someone never to mention that he had made a big
7 gift a year or two before?

8 A Well, in any experience, and, of course, my
9 experience has been largely almost exclusively with individuals
10 and most of them, when they make a gift, they aren't reminding
11 people all the time that they made a gift.

12 If it comes up and somebody questions them or
13 something, they will say it; but I didn't have the feeling and
14 have never had the feeling that someone is always reminding
15 people of it.

16 Usually people make a gift and they are glad to
17 make the gift and that is it.

18 Q On March 25th, that lunch with Mr. Ehrlichman, if
19 you can recall, did he happen to mention anything about dairy
20 farmers? Did he mention, for example, that there had been a
21 big meeting with a whole lot of dairy farmers the day before
22 with the President?

23 A I remember nothing of that sort.

24 Q So, it is your testimony that at that time you
25 were totally unaware of the pendency of any price support
26 matter as related to your fund-raising activities?

27 A I was unaware, and I remember -- I have no memory
28 at all, Mr. Ehrlichman, of being aware of pending price support,

1 increase, or whatever.

2 Q Now, you read a little earlier this Exhibit
3 number 34-26 in Lock 3 of the Senate Watergate Committee
4 Hearings, and on pages 1226 and 1229 this memorandum quote
5 Dean as saying, "Evans, Rurn and Sloan have raised the surplus
6 funds;" and then Haldeman is quoted as saying, "Forget this.
7 No. The surplus funds are not to go into 1701. There is no
8 need for cash in the 1701."

9 Do you know what refers to?

10 A Yes.

11 Q Could you explain that, please?

12 A The surplus funds were the funds that I held in
13 trust, surplus from the 1968 campaign. Bob Haldeman had the
14 absolute direction as to these funds, and he is saying there
15 what he said to me several times, and that is that these funds
16 are to be disbursed only on his direction or on the direction of
17 the people staying in his stead, that these funds were not to
18 be disbursed by me in support of the 1701 Re-election Campaign
19 Program, other than as personally authorized by him. And he
20 simply is stating what I've just said.

21 Q Why doesn't he want it to go into 1701? What is
22 that?

23 A 1701, Mr. Debrovir, was the Committee for the Re-
24 election of the President. It was the campaign organization
25 at 1701 Pennsylvania Avenue.

26 It's my memory that he wanted the campaign organiza-
27 tion to raise funds and support its activities through financial
28 efforts, and within that use with it the surplus funds that had been

1 MR. DEBROVIR: I have no more questions.

2
3 EXAMINATION

4 BY MR. O'CONNOR:

5 Q Mr. Kalmbach, after being shown several documents
6 by Mr. Debrovir today, you indicated that you had discussed
7 the question of dairy contributions with Mr. Haldeman; is that
8 right?

9 A Yes.

10 Q Now, referring to your deposition taken April 30,
11 that was the first time Mr. Debrovir took your deposition --

12 A Yes.

13 Q -- on page 34, you were asked the question "did
14 you ever discuss this question of dairy contributions with
15 Mr. Haldeman at any time?" A. I don't recall that I did."

16 A Well, those recent memoranda and the like have
17 refreshed my recollection, Mr. O'Connor, and now with my memory
18 refreshed I do recall I did discuss these contributions with
19 Mr. Haldeman.

20 MR. O'CONNOR: Go ahead.

21
22 EXAMINATION

23 BY MR. GOLDBLOOM:

24 Q Mr. Kalmbach, I realize that either you have stated
25 some of these matters about which I intend to question you
26 either directly or by indication by some of your answers to
27 Mr. Debrovir, but for the sake of the record, I would like to
28 clarify and note here there is no question about them.

1 You have testified at length about your substantial
2 involvement in campaign contributions, and contact concerning
3 campaign contributions with representatives of the dairy
4 industry, and whether they are officers of dairy farmer
5 producers organizations and/or their attorneys, and you've
6 also testified to numerous contacts and activity with various
7 members of the White House staff, as well as members of the
8 political campaign organizations supporting the Re-election of
9 President Nixon.

10 I want to ask you whether during the course of any
11 of these contacts and discussions about campaign contributions,
12 specifically by the dairy industry that we've talked about; was
13 there ever a suggestion made, either by members of the dairy
14 industry or their representatives, or by representatives of
15 the White House staff, or by members of the campaign organizations
16 that the making of campaign contributions, or the failure to
17 make such campaign contributions, would have a specific result
18 with respect to particular governmental actions which might
19 have an impact on the dairy industry?

20 A No, I do not recall ever remembering any such
21 statements.

22 Q Was there anything by indirect suggestion by
23 members of any of these groups to that effect?

24 A And again I cannot recall ever any indirect
25 suggestions of such.

26 Q Did you ever have particular discussions about
27 the decisions reached by the Government, whether it be by the
28 President, or by Department of Agriculture, with respect to

1 import quotas on the Dairy Price Support Program?

2 A I have no memory of any such statement or
3 discussions.

4 Q And do you recall any members of the dairy
5 industries or their representatives urging upon you to make
6 contact with members of the Administration with respect to
7 specific requests for governmental actions?

8 A I have no memory of ever being urged by any
9 representative of the dairy industry or any of their attorneys
10 ever urging that on me.

11 MR. GOLDELOCH: I have no further questions.

12 MR. DOBROVIR: Off the record.

13 (Whereupon a discussion ensued off the record).

14 MR. DOBROVIR: Back on the record.

15
16 FURTHER EXAMINATION

17 BY MR. DOBROVIR:

18 Q Mr. Kalmbach, you have read the letter from
19 Patrick J. Hillings to President Nixon in December of 1970,
20 have you not?

21 A Yes, sir, I have.

22 Q If you would like to look at it again while I
23 ask this question, if you don't recall it specifically enough
24 I have no objection to your reading it again.

25 If you were sitting in the President's chair,
26 had received such a letter, would you have interpreted that
27 letter as something more than an indirect suggestion that
28 two million dollars would be flowing into your country, if

Incorporated?

A I can't recall that I knew that.

Q And do you know that SPACE is a political committee for trust connected with a dairy cooperative called Dairymen, Incorporated?

A I may have been advised of this but again I can't recall it with precision.

Q Now can you recall when you first heard of any of these three trusts, TAPE, SPACE, or ADEPT?

A Well, it seems to me that in 1971, I was talked to along the lines that one or more of these dairy cooperatives were interested in making a contribution towards the forthcoming 1972 campaign. That's my recollection of first hearing this.

Q And with whom was that conversation?

A I don't recall, Mr. Dobrovir, where the first person that spoke to me about that--it was perhaps someone in the White House, but I can't recall exactly who that person was.

Q Do you recall when the conversation took place?

A No, other than it seemed to me that it was sometime in mid-1971, but again I can't be specific on dates.

Q Someone in the White House? Perhaps I might try to refresh your recollection if I just reel off a bunch of names.

Murray Chotiner?

A I may have spoken to Mr. Chotiner about this, from time to time.

Q How long have you known Mr. Chotiner?

A I have known him--oh, I think I first met him in the late 1950's.

Q Has your contact with him been frequent since that time?

A No, infrequent.

Q So you would not call him a close associate of yours in political work?

A No, I know Mr. Chotiner and have known him casually over the years.

Q And are you acquainted with Marion Harrison?

A Yes.

Q Do you know him well?

A No.

Q Now, would this conversation with Mr. Chotiner, if it was Mr. Chotiner--did this take place shortly after you assumed your responsibilities as fund raiser for the campaign, say before March 1, 1971?

A No, any conversation I might have had with Mr. Chotiner in this area, and again I don't know if he was the one that

initially talked to me--that conversation would have taken place on this subject sometime, as I say, in mid-1971.

Q Now, this conversation--

A That is as I recall it.

Q Yes. Now this conversation in mid-1971, whomever it was with, was that the first time you became aware of the existence of TAPE, SPACE and ADEPT?

A Again it seems to me this is the first time that I was briefed on the ADEPT-SPACE terminology.

Q Now, did you know that Murray Chotiner had ceased to be a member of the White House staff on or about March 9, 1971?

A Well, I know he had left the White House staff but I don't remember when that was. Again, I feel that any conversation that I had with him was subsequent to that change.

Q But you did mention earlier that you learned about this interest of the dairy groups in making political contributions from someone in the White House?

A I did indicate I was first contacted, again as I recall it, by someone and it could well have been Mr. Chotiner but again it could have been someone in the White House who spoke to me.

Q Was it Mr. Haldeman?

A No, I don't recall that it was.

Q Was it Mr. Ehrlichman?

A No.

Q Mr. Colson?

A I don't believe it was Mr. Colson; it may have been.

Q Would it have been Mr. Dean?

A No.

Q Do you know Henry Cashin?

A Yes, I do.

Q Would it have been Henry Cashin?

A It may have but I don't recall it was.

Q Does Harry Dent refresh your recollection?

A It may have been Harry Dent.

Q John Whittaker?

A I don't remember whether John Whittaker--I don't remember whether I spoke to John Whittaker or not.

Q You were involved in fund raising in 1968 also, were you not?

A Yes, I was.

Q And did you engage in fund raising in other campaigns of Mr. Nixon, 1962, in California?

A Yes, I did.

Q 1960 for the Presidency?

A Well, I was active in 1960, but not in the campaign.

Q And before that, in the Vice Presidential campaigns 1956, 1952?

A Not formally.

Q How long have you worked politically with Mr. Nixon

A Relating it to various campaigns, I helped formally and informally for--back before 1960.

Q Do you consider that your relationship with President Nixon is a close one?

A Yes, I do.

Q In connection with your political activities, was it generally your custom to keep him advised of your activities?

A No.

Q It is not?

A It is not. That is to my political activities.

Q On his behalf?

A Yes, that's right.

Q Why is that? Why do you not think it appropriate to keep him advised of your activities?

A Well, I don't regard myself as reporting to the President in political activities. I feel that it is somewhat inappropriate for me to regard myself as reporting to the President in this area.

Q Now, when did you first become aware that these three dairy groups, ADEPT, TAPE and SPACE had made or were going to make contributions? I believe you testified that the first time you heard of them was in mid-1971?

A That is my recollection.

Q And was that also the first time you heard that they had made or were going to make contributions?

A Again that is as I remember it, Mr. Dobrovir.

Q How were you told that they had made contributions?

A No, it was a very casual conversation, and I was simply asked to talk to a few people to see whether or not certain procedures were being set up, including committees, and that the administration was being had. I had no knowledge of any amount, and I had no knowledge of the conversations that had gone on beforehand, if any.

Q Whom were you asked to speak to?

A About that time I think I was asked to talk to Mr. Bennett. He was one of the people that I was asked to speak to.

Q Did you talk to Mr. Bennett?

A Yes, I did.

Q When was that?

A Again perhaps in mid-1971 and again I cannot state

Q Were you ever shown any lists of names and chairmen and addresses of chairmen of the Bennett committees?

A I don't recall any lists. I may have been shown lists. I may have been shown a list of the hundred committee names, but --

Q Let me show you a list which was produced by Mr. Bennett in his deposition, which we took, and ignoring the pencilled, inked writing which is ours, will you take a look at it and tell us if you have ever seen that list?

A I have not.

Q Now did you ever have any personal contact with people from these dairy committees?

A Yes, I did have.

Q And can you describe those contacts?

A I may have met one or more of them in 1951--

Q 1951?

A I'm sorry. In 1971. But I recall that I did with particularity, that I did meet with certain of the people in 1972, early in 1972.

Q Going back to 1971, can you recall if you met with Harold Nelson at that time?

A That name is familiar and I may well have.

Q Do you recall where that meeting took place?

A No, I do not.

Q Do you recall what happened at that meeting?

A No.

Q Would it refresh your recollection if I said to you that Mr. Nelson testified? I think it best that I read his testimony so the record is entirely accurate. Reading from page 28 of the deposition given by Mr. Nelson in February of this year, and Mr. Nelson had first discussed the 1972 meeting that you referred to, and then:

"QUESTION: When you say either you or Mr. Jacobson, did you yourself know Mr. Kalmbach before that meeting?

"ANSWER: I have met Mr. Kalmbach before that meeting.

"QUESTION: In what connection?

"ANSWER: In a connection with seeking direction as to how we could make the contributions we wanted to make.

"QUESTION: Could you describe those contacts: when you met him, where you met him.

"ANSWER: I don't recall. I believe it was either in Washington or in his office in California.

"QUESTION: Do you recall when?

"ANSWER: No.

"QUESTION: And who initiated the contact?

"ANSWER: As I recall, I can't tell you. It might

have been Marion Harrison. I assume that it was, but I can't tell you it was.

"QUESTION: This was before the February meeting however?

"ANSWER: As I recall, it was before the February meeting, yes."

THE WITNESS: Pardon me, Mr. Dobrovir. February of what year?

MR. DOBROVIR: 1972.

THE WITNESS: Thank you.

MR. DOBROVIR: I am sorry.

"QUESTION: Do you recall how long before?

"ANSWER: Now this is just pure speculation. I would say maybe 30 days or 60 days."

BY MR. DOBROVIR:

Q That is pretty much his testimony. Now does that refresh your recollection about that 1971 meeting?

A No, that is consistent with my recollection which is that I may have met him in 1971; again the purpose of that meeting would have been to talk to him about any procedures that they had in mind as to how to effect contributions to the campaign in a proper and regular manner.

Q His reference to 30 days or 60 days before the

February meeting, does that refresh your recollection as to when that 1971 meeting took place?

A No, it does not. My memory is that if I met him at all in 1971, I can't be specific as to when.

Q Was that meeting initiated by Marion Harrison?

A It might have been. I knew Mr. Harrison to be the attorney for one or more of these milk associations.

Q What contacts did you have with Mr. Harrison in 1971 in connection with these dairy organizations?

A Again, he talked to me to get my counsel as to the proper way to effect these contributions that I had understood might be forthcoming from the dairy cooperatives, which I understood were clients of his.

Q And what kind of counsel was he seeking?

A Just counsel as to procedures.

Q And do you recall when those contacts took place?

A Again, I do not. I go back to mid-1971 and it could have been later that year, but I would just be hesitant giving any precise date.

Q Now let's go on to the 1972 meeting. Can you tell us how that meeting came about?

A Well, it seems to me that early in 1972 and this could have been in perhaps January or February, I was contacted by

this matter.

Q Now we discussed earlier that you had been asked to speak to various people about these dairy contributions by this person in the White House whose name you cannot remember, and you indicated then that one of the people you were asked to speak to was Mr. Bennett and Mr. Sloan. Was there anyone else you were asked to speak to?

A Well, I think Mr. Harrison was one of the people I was asked to speak to, and I remember that we had some casual conversation, and I advised him at that time that in my view the mechanics that were being established were sufficient and would be sufficient to accomplish the purpose of Mr. Sloan in receiving contributions from the dairy trusts.

Q Now you also indicated that you talked to Murray Chotiner about this. Was he one of the people you were asked to talk to?

A It may have been but Murray Chotiner I think that time was counsel to Reeves and Harrison and it was altogether to be expected that Murray Chotiner might have been one of the people I spoke to but I can't again state it as a fact.

Q Now, going back to a decision you made that was reflected in this--I guess the Madison Hotel--

A Yes, that second meeting.

CROSS-EXAMINATION

2 By Mr. Goldbloom:

3 Q I have a couple of questions, Mr. Nelson. During the
4 course of your various discussions with members of
5 Congress or Congressional staff members or the President
6 or members of the White House staff or with whomever you
7 may have come in contact or officials of the Department
8 of Agriculture in connection with your efforts to obtain
9 a satisfactory -- that is, satisfactory to your interests
10 -- result concerning the price support level were there
11 discussions to the effect that the making of political
12 contributions by the agricultural trust would have an
13 effect or an impact upon the decisions to be reached by
14 the Government as to the price support level?

15 A Absolutely not.

16 Q Did anyone intimate to you that the making of political
17 contributions, or for that matter, the failure to make
18 political contributions, would have any kind of effect
19 on such a determination?

20 A No, they did not.

21 Q And in the course of your discussions did you or others
22 representing your interests suggest that the making of
23 political contributions might have a beneficial result?

24 A No, absolutely not.

25 MR. GOLDBLOOM: I have no further questions.

1 A I'd just like to say this: I take it that what you're
2 asking me -- the essence of what you were asking me is,
3 was there a quid pro quo.

4 Q Exactly.

5 A There's never been a quid pro quo in my total experience.

6 CROSS-EXAMINATION

7 By Mr. Barrera:

8 Q Just by way of clarifying the people that may have been
9 present at the meeting, which you've already given some
10 names, both as to those that may have been with the
11 President's staff and those that may have been with the
12 farm group, in number, would you hazard a guess as to how
13 many people may have been there all told?

14 A As I recall, the meeting was in the Cabinet Room and the
15 Cabinet table was full -- the seats at the Cabinet table
16 -- and chairs were arranged in back of the President with
17 people occupying them. So I would say -- that's very hard
18 to figure. I would say if you started counting, though,
19 a total of thirty-five to fifty people in there. I'd
20 say probably nearer thirty-five. I could be wrong on
21 that, too. I'm sure they know how many were in there,
22 but it was a goodly number of people.

23 Q The \$8500.00 loan to Mid-America, do I recall your having
24 said that you did or did not recall the possibility of
25 such a loan?

MR. DOBROVIR: I have no more questions.

MR. GOLDBLOOM: I have a few questions, Mr. Parr.

EXAMINATION BY COUNSEL ON BEHALF OF DEFENDANTS

BY MR. GOLDBLOOM:

Q In connection with the efforts that you testified about in which you participated to obtain a change in the Secretary's March 12 decision to maintain the price support level at \$4.66 a hundredweight, which is what it had been the previous year, did you either believe, or say to anyone, that the making of political contributions by TAPE to any committee or group supporting either the President of the United States or Republican Congressional candidates could achieve a change in the price support determination?

A No.

Q Did anyone ever say to you, either directly or by implication, or by inference that if political contributions were made by TAPE to committees which were Republican in nature, that the making of those political contributions would help to effectuate a change in the price support determination of the Secretary of March 12, 1971?

A No.

Q Do you believe that the making of political contributions by TAPE, or by any other political trust associated

with a dairy farmer organization caused the change in the price support determination of the Secretary of Agriculture of March 25, 1971?

A No.

MR. GOLDBLUM: I have no further questions.

MR. STEELE: I have no questions.

We are not going to waive signature, but please send the original to Mr. Wilson, and he will handle it quicker.

(Whereupon, at 5:00 o'clock, p.m., the taking of the deposition was concluded.)

- - -

dairy groups, that this particular committee of which Mr. Hunt was Chairman, was not so used?

A I was not aware and I am not now aware.

MR. CHOTINER: Okay. I haven't any more questions.

MR. GOLDBLOOM: I have a few.

EXAMINATION BY COUNSEL FOR DEFENDANTS

BY MR. GOLDBLOOM:

Q Mr. Harrison, you testified with respect to various activities in terms of representing the interests of your clients in connection with the dairy price support level and the determination of that level during 1971, in particular, meetings that you had with various officials of the Department of Agriculture and representations which you made in connection with meetings, to various personnel on the White House staff. Now, barring, that is keeping aside any privileged communication which you may have had with your clients, did you at any time during the presentations that you made to officials of the Department of Agriculture or personnel on the White House staff or for that matter, anyone else, discuss the matter of political contributions that were made or were going to be made or the possibility of their being made in connection with your efforts to obtain a satisfactory result for your clients' interests on the dairy price support level?

A No.

Q Did you ever at any time in the course of your activities to obtain a satisfactory result for your clients' interests, suggest or intimate or say that political contributions might be made and that this would be a way of achieving a satisfactory result for that determination?

A No.

Q Did anyone ever suggest to you from the personnel of the Department of Agriculture, personnel in the White House staff or anywhere else for that matter, that if political contributions were made by your clients, that this would help to achieve a satisfactory result for your clients' interest?

A Certainly not.

MR. GOLDBLOOM: I have no further questions.

MR. DOBROVIR: Do you have any questions, Mr. Chotiner?

MR. CHOTINER: I never ask them.

MR. DOBROVIR: Thank you very much for coming by. I guess we'll see you tomorrow.

THE WITNESS: Let me indicate on the records I am here in response to a subpoena of the United States District Court for the District of Columbia issued by a Deputy Clerk thereof on motion of Mr. William A. Dobrovir, attorney for plaintiffs in this case.

(Whereupon, at 3:40 o'clock, p.m., the taking of the deposition was concluded.)

24. Economic and traditional political considerations were the only basis of the decision to increase the price support level. Increased costs and other economic factors raised by dairymen, the political pressure which precluded a veto of a bill which would set parity at a minimum of 85% and possibly as high as 90%, the potential threat of production controls which would decrease the milk supply and the need for an increased supply of cheese were factors which caused Secretary Hardin to change his earlier decision.

		Page
24a	Affidavit of Clifford M. Hardin, filed March 19, 1972, in <u>Nader v. Butz</u> , (D. D. C. Civ. No. 148-72).....	200
24b	GCC Docket MCP 98a, Amendment 1 and attachments..	208

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

as well as "stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy." (7U.S.C. 1446b).

3. On March 12, 1971, an announcement was issued at my direction advising the public of my determination to support the price of milk at \$4.66 per cwt. for the year April 1, 1971 to March 31, 1972. This was the same level as was in effect for the previous year. The complex economic factors which enter into a decision such as this are, of course, not subject to any one interpretation. Indeed, based on the information and advice that I was receiving, a number of determinations, including one to raise the support level to \$4.93 per cwt., would have been justified at this time. The initial determination of the level of price support for milk as announced on March 12, 1971 was the subject of major controversy even before it was made. Nevertheless, on balance I determined for the reasons stated in C.C.C. Docket MCP 98a to set the support level at \$4.66 per cwt.

4. At the time of the March 12, 1971 announcement of the price support level, I was aware of substantial Congressional sentiment in favor of a higher figure. Subsequent to the announcement of the \$4.66 per cwt. price support on March 12, 1971, such sentiment increased notably. A number of bills were introduced in both the Senate and the House which would have increased the support level on a mandatory basis to as much as \$5.00 per cwt. In addition, certain representatives of the dairy industry strongly urged that the price support determination be revised, pointing to increase in dairy production costs during the preceding 12 months. For example, at a meeting with the President on March 23, 1971, various representatives of the industry urged an increase in the price support level citing again the factor of increased costs to farmers.

5. The existence of such sentiment on the part of many members of Congress and wide segments of the dairy industry led me to inquire as to

whether sufficient weight had been given to those factors which we had been aware of at the time of the March 12, 1971 announcement and which would have supported a decision to establish the price support at a higher level.

6. The meeting between representatives of the dairy industry and the President, referred to in paragraph 4 above, resulted from an invitation extended by the President in September, 1970, at a time when I addressed a meeting of some 25,000 members of a milk producers organization in Chicago. The arrangements which I made for key leaders of the dairy industry to meet with the President were made in January, 1971, and the March 23, 1971 date was fixed by the White House on February 25, 1971. At the meeting, to the best of my recollection, the President made certain brief remarks to the group and a spokesman for the group made a presentation urging an increase in the price support level.

7. In light of the considerations noted in paragraphs 4 and 5 above. I reevaluated the price support level announced on March 12, 1971 on the basis of the requirements of 7 U.S.C. 1446, with an increased focus on the factors described in C.C.C. Docket MCP 98a, Amendment 1. Among other things, feed costs had shown a noticeable rise throughout the year. In addition, there was some indication that the producers were considering action, based on recent legislation, which would have had the effect of reducing the overall supply of milk. One other factor to which our attention was directed was the fact that an increased supply of cheese was needed to meet obligations under other programs and a higher support price would tend to insure an adequate supply for these purposes. Such a reevaluation was not novel. Price support determinations for particular marketing years had been increased in the past.

8. During the course of reevaluating the evidence, I had discussions

and advise from members of my staff, including Under Secretary Campbell, Assistant Secretary Lyng, and Assistant Secretary Palmby.

9. On March 25, 1971, this reevaluation of evidence pertinent to the dairy situation, on the basis of the criteria in 7 U.S.C. 1446, culminated in an announcement, issued at my direction, that the price support level for the marketing year 1971-1972 would be established at \$4.93 per cwt.

10. The decision to set the price support level at \$4.93 per cwt. was based entirely on a reconsideration of the evidence on the basis of the statutory criteria.

11. Neither the decision to reevaluate the \$4.66 per cwt. support price level nor the ultimate decision to establish the price support level at \$4.93 per cwt. was based on any consideration other than those outlined in this affidavit. Specifically, at no time did any person or organization promise or lead me to believe that funds of any kind or anything of value would be paid to me or any other person or organization in return for a reevaluation of, or increase in, the price support level.

12. Being cognizant of the views of Congress, as well as the views of the dairy industry and other industries affected by our programs, with respect to the administration of statutes relating to Agriculture, is, of course, a fundamental part of the Secretary's role.

/s/ Clifford M. Hardin
Clifford M. Hardin

Subscribed and sworn to before me this 7th day of March, 1972

/s/
Notary Public

State of Missouri

City of St. Louis Act performed in the City of St. Louis,
which adjoins the County of St. Louis,
My commission expires: My Commission expires January 2, 1973.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RALPH NADER, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 148-72
)	
EARL L. BUTZ, et. al.,)	
)	
Defendants.)	

FILED
MARCH 19 1972
JAMES F. BERRY, CLERK

AFFIDAVIT

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

I, Clifford M. Hardin, being duly sworn, hereby depose and say as follows:

1. I am a Vice-Chairman of the Board of Ralston Purina Company, St. Louis, Missouri. From January 21, 1969 until November 17, 1971, I was the Secretary of Agriculture of the United States. As such, I had ultimate responsibility for the determination of dairy price support levels for the marketing year 1971-1972 under the applicable statutes.

2. Section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446), authorizes and directs the Secretary of Agriculture to make available price support to producers of milk "at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply." Section 406 of the Agricultural Act of 1949, as amended, requires the Secretary "insofar as practicable" to announce the level of support for milk "in advance of the marketing year or season" (7 U.S.C. 1426). The level of support so announced may not be reduced. In addition, the purposes of Section 204(a) of the Agricultural Act of 1949 include, among other things, to assure adequate supplies of milk and dairy products; encourage development of efficient production units

as well as "stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy." (7U.S.C. 1446b).

3. On March 12, 1971, an announcement was issued at my direction advising the public of my determination to support the price of milk at \$4.66 per cwt. for the year April 1, 1971 to March 31, 1972. This was the same level as was in effect for the previous year. The complex economic factors which enter into a decision such as this are, of course, not subject to any one interpretation. Indeed, based on the information and advice that I was receiving, a number of determinations, including one to raise the support level to \$4.93 per cwt., would have been justified at this time. The initial determination of the level of price support for milk as announced on March 12, 1971 was the subject of major controversy even before it was made. Nevertheless, on balance I determined for the reasons stated in C.C.C. Docket MCP 99a to set the support level at \$4.66 per cwt.

4. At the time of the March 12, 1971 announcement of the price support level, I was aware of substantial Congressional sentiment in favor of a higher figure. Subsequent to the announcement of the \$4.66 per cwt. price support on March 12, 1971, such sentiment increased notably. A number of bills were introduced in both the Senate and the House which would have increased the support level on a mandatory basis to as much as \$5.00 per cwt. In addition, certain representatives of the dairy industry strongly urged that the price support determination be revised, pointing to increase in dairy production costs during the preceding 12 months. For example, at a meeting with the President on March 23, 1971, various representatives of the industry urged an increase in the price support level citing again the factor of increased costs to farmers.

5. The existence of such sentiment on the part of many members of Congress and wide segments of the dairy industry led me to inquire as to

... sufficient support had been given to price support when we had
... of at the time of the March 12, 1971 announcement and which
... have supported a decision to establish the price support at a
... level.

6. The meeting between representatives of the dairy industry and
the President, referred to in paragraph 4 above, resulted from an
invitation extended by the President in September, 1971, at a time when
I addressed a meeting of some 25,000 members of a milk producers
organization in Chicago. The arrangements which I made for key leaders
of the dairy industry to meet with the President were made in January,
1971, and the March 23, 1971 date was fixed by the White House on
February 25, 1971. At the meeting, to the best of my recollection,
the President made certain brief remarks to the group and a spokesman
for the group made a presentation urging an increase in the price support
level.

7. In light of the considerations noted in paragraphs 4 and 5 above,
I reevaluated the price support level announced on March 12, 1971 on the
basis of the requirements of 7 U.S.C. 1445, with an increased focus on
the factors described in C.C.C. Docket MCP 98a, Amendment 1. Among other
things, feed costs had shown a noticeable rise throughout the year.
In addition, there was some indication that the producers were considering
action, based on recent legislation, which would have had the effect of
reducing the overall supply of milk. One other factor to which our
attention was directed was the fact that an increased supply of cheese
was needed to meet obligations under other programs and a higher
support price would tend to insure an adequate supply for those purposes.
Such a reevaluation was not novel. Price support determinations for
particular marketing years had been increased in the past.

8. During the course of reevaluating the evidence, I had discussions

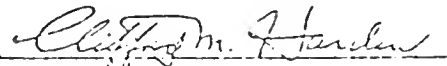
and advice from members of my staff, including Under Secretary Campbell, Assistant Secretary Lyng, and Assistant Secretary Falgout.

9. On March 25, 1971, this reevaluation of evidence pertinent to the dairy situation, on the basis of the criteria in 7 U.S.C. 1446, culminated in an announcement, issued at my direction, that the price support level for the marketing year 1971-1972 would be established at \$4.93 per cwt.

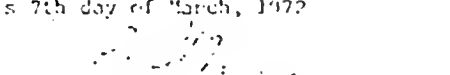
10. The decision to set the price support level at \$4.93 per cwt. was based entirely on a reconsideration of the evidence on the basis of the statutory criteria.

11. Neither the decision to reevaluate the \$4.66 per cwt. support price level nor the ultimate decision to establish the price support level at \$4.93 per cwt. was based on any consideration other than those outlined in this affidavit. Specifically, at no time did any person or organization promise or lead me to believe that funds of any kind or anything of value would be paid to me or any other person or organization in return for a reevaluation of, or increase in, the price support level.

12. Being cognizant of the views of Congress, as well as the views of the dairy industry and other industries affected by our programs, with respect to the administration of statutes relating to Agriculture, is, of course, a fundamental part of the Secretary's role.


Clifford M. Hardin

Subscribed and sworn to before me this 7th day of March, 1972


Notary Public

State of Missouri

City of St. Louis

My commission expires: _____

"For Official Use Only" and "Secure Storage Required" Provisions
Expired on May 25, 1971,

222 Docket MCP 98a,
Amendment 1

Milk Price Support Program, 1971-72
(Increases the support price)

Approval by Board: May 12, 1971

Approval by Clifford M. Hardin,
Secretary of Agriculture: May 25, 1971

Press Release No. 969-71 was issued on March 25, 1971.

Press Release No. 981-71 was issued on March 26, 1971.

Regulations: Date of Publication in Federal Register May 1, 1971

Page No. 8237

Federal Register Citation 36 F. R. 8237

General Counsel's opinion
is attached to this copy.

UNITED STATES DEPARTMENT OF AGRICULTURE

McDavid 383-4026

Washington, March 25, 1971

Support Price for Manufacturing Milk Increased

Secretary of Agriculture Clifford M. Hardin today announced an upward adjustment of support price for manufacturing milk to \$4.93 from the \$4.66 support price announced by him on March 12 which was a continuance at that time of support at the same level as for 1970.

In announcing the new higher support level, Secretary Hardin stated such announcements are minimums which cannot be lowered during that marketing season after once being announced, but which can be raised. Support levels can be lowered only at the beginning of the milk marketing year each April 1st.

Secretary Hardin stated that there is a constant analysis of the milk production situation, and that farmer costs have escalated sharply particularly in concentrate feed which has gone up \$10 to \$20 per ton. Farmers have no way to cut other costs to compensate for those which have risen.

-- 5323

USDA 969-71

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SECURE STORAGE REQUIRED

SUMMARY

Milk Price Support Program, 1971-72, MCP 98a, Amendment 1

Authorizes increase of (1) support price for manufacturing milk from \$4.66 to \$4.93 per hundredweight, (2) purchase price of Cheddar cheese from 52.0 to 54.75 cents per pound, and (3) purchase price of nonfat dry milk from 28.4 to 31.7 cents per pound.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE • WASHINGTON, D. C. 20250

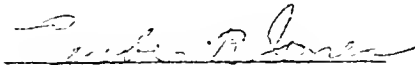
April 9, 1971

To : Board of Directors, Commodity Credit Corporation
From : Director, Livestock and Dairy Division
Subject: Milk Price Support Program, 1971-72, MCP 98a, Amendment 1

This amendment increases the support price for manufacturing milk from \$4.66 per hundredweight to \$4.93 per hundredweight. Also, the amendment increases the purchase price for Cheddar cheese from 52.0 to 54.75 cents per pound, and the purchase price for nonfat dry milk from 28.4 to 31.7 cents per pound.

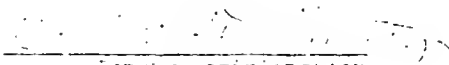
Press release No. 969-71 was issued on March 25, 1971, and press release No. 981-71 on March 26, 1971.

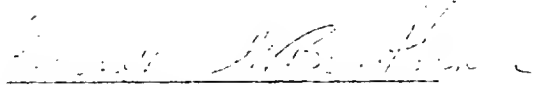
Recommended:


Director,
Livestock and Dairy Division

Approved for submission to
the Board of Directors,
Commodity Credit Corporation

Consumed: APR 9 1971


Deputy Administrator,
Commodity Operations


Executive Vice President,
Commodity Credit Corporation

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Milk Price Support Program, 1971-72, MCP 98a,
 Amendment 1

A. INTRODUCTION

I. Purpose

This docket amends Docket MCP 98a (approved by the Board of Directors, CCC, on March 3, 1971, and by the Secretary of Agriculture on March 22, 1971) by increasing the support price for manufacturing milk to producers during the marketing year beginning April 1, 1971, from \$4.66 per hundredweight to \$4.93 per hundredweight.

II. Justification

Based on a reevaluation of the dairy situation, giving full recognition to increasing labor, waste disposal, and other costs on dairy farms and to increasing demand for cheese, it is determined that a support price of \$4.93 per hundredweight for manufacturing milk is necessary in order to assure an adequate supply.

B. AUTHORIZATION

I. Provisions of Program

Subsection B I A, Level of Support, is amended by increasing the support price from \$4.66 per hundredweight to \$4.93 per hundredweight.

II. Subsection B I C, 1 Purchase Prices, is amended to read, as follows:

C. Purchase Prices.

1. Bulk Containers. Purchase prices for bulk butter in 60 to 60 pound containers, nonfat dry milk in 50 pound bags, and natural Cheddar cheese shall be those indicated below:

	<u>Purchased and produced before April 1, 1971</u>	<u>Purchased on or after April 1, 1971</u>
	Cents per lb. - - - - -	
<u>Butter, U. S. Grade A or higher:</u>		
New York, N. Y., and Jersey City and Newark, N. J.	70.75	68.00
California, Idaho, and Hawaii	70.00	67.00
Washington and Oregon	70.00	67.00
Minnesota, Iowa, Missouri, Illinois, Indiana, Michigan, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, and Puerto Rico	68.00	65.00

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, March 26, 1971

USDA Announces Dairy Purchase Prices for 1971-72:

The U.S. Department of Agriculture today announced the prices it will pay for butter, nonfat dry milk, and cheese to carry out the 1971-72 support price of \$4.93 per hundredweight for milk which was announced March 25 (Press Release: USDA 969-71). The product purchase prices are those which are calculated to enable processors to pay producers, on the average, the support price of \$4.93 per hundredweight for milk.

As announced March 12 (USDA release 843-71), the purchase price for butter is being lowered 2 cents per pound. This reduction in the price of butter was made possible by a provision in the Agricultural Act of 1970 which suspended the mandatory requirement for supporting butterfat in farm separated cream.

The new support price for milk, and the new product purchase prices shown below become effective April 1, 1971, the beginning of the marketing year.

	Purchased and produced before <u>April 1, 1971</u>	Purchased on or after <u>April 1, 1971</u>
	----- cents per lb.	-----
Butter, U.S. Grade A or higher:		
New York, N.Y., and Jersey City and Newark, N.J.	70.75	68.75
California, Alaska, and Hawaii	70.00	67.75
Washington and Oregon	<u>1/</u>	67.75
Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and South Carolina	69.75	67.75

U.S. Grade B: 2 cents per pound less than for U.S. Grade A.

The price of butter located at any other point will be the price at a designated market, either New York, Seattle, or San Francisco, less 80 percent of the lowest published domestic railroad freight rate per pound gross weight for a 50,000 pound carlot, in effect at the beginning of this marketing year, from such other point to the designated market named by the seller.

	Produced before <u>April 1, 1971</u>	Produced on or after <u>April 1, 1971</u>
	----- cents per lb.	-----
<u>Cheddar Cheese, U.S. Grade A or</u> <u>higher, standard moisture basis</u>	52.0	51.75

Cheddar Cheese, U.S. Grade Extra
higher, standard moisture basis

	Produced before <u>April 1, 1971</u>	Produced on or after <u>April 1, 1971</u>
	----- cents per lb. -----	
<u>Cheddar cheese, U.S. Grade A or higher, standard moisture basis</u>	52.0	54.75
<u>Nonfat dry milk (spray) U.S. Extra grade (but not more than 1.5 percent moisture)</u>	27.2	31.7

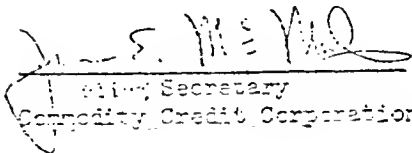
1/ Calculated by use of freight rates.

The butter purchase price at any other point shall be determined by subtracting from the price at a designated market named by the seller 80 percent of the lowest published freight rate in effect at the beginning of the marketing year from such other point to such designated market. The designated markets are New York, N.Y., San Francisco, California, and Seattle, Washington.

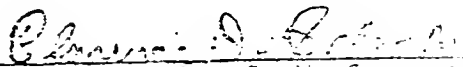
III. For Official Use Only Designation

The "For Official Use Only" designation of this docket will terminate on date of approval by the Secretary of Agriculture.

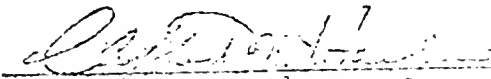
Approved by CCC Board of Directors
at meeting held on July 12 1971


J. S. McNeil
Assistant Secretary
Commodity Credit Corporation

Approved: _____


Clarence D. Colwell
President, Commodity Credit Corporation
and
Assistant Secretary for International
Affairs and Commodity Programs

May 25 1971


Secretary of Agriculture
U.S. DEPARTMENT OF AGRICULTURE

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SECURE STORAGE REQUIRED



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE • WASHINGTON, D.C. 20250

DATE: SEP 5 1972

TO: Board of Directors, Commodity Credit Corporation

SUBJECT: Availability of Funds Statement - Milk Price Support Program, 1971-72,
MCP 98a, Amendment 1

Gross obligations under this authorization are currently estimated at \$510.4 million during fiscal year 1972 (consisting of purchases of \$224.4 million of butter; \$82.6 million of cheese, and \$203.4 million of nonfat dry milk). This amount represents an increase of \$124.7 million over the \$385.7 million reflected in the 1972 Budget Estimates.

Net expenditures for price support and related program during fiscal year 1972 are expected to increase by \$126.2 million over the 1972 Budget Estimates; from \$296.0 million to \$422.2 million.

It is estimated that Commodity Credit Corporation funds will be available for this purpose.

A handwritten signature in cursive script, appearing to read "A. W. Lawrence Jr.", is written over the typed name and title.
Director, Budget Division

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DEPARTMENT OF AGRICULTURE
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20250

APR 15 1971

SUBJECT: Milk Price Support Program,
1971-72, MCP 98a, Amendment 1

TO: Board of Directors, Commodity Credit Corporation

We have examined and approve for legal sufficiency the authorization contained in the attached docket "Milk Price Support Program, 1971-72, MCP 98a, Amendment 1," which increases the support price to milk producers and purchase prices for dairy products authorized in Docket MCP 98a.

On March 25, 1971, the Secretary announced the upward adjustment of the support price which is provided for in the attached authorization. Docket MCP 98a contained information and statistics relating to milk production, market prices for dairy products, utilization of milk, and purchases and dispositions of dairy products by CCC, together with other relevant information. It is pointed out in the attached docket that the dairy situation has been reevaluated, giving full recognition to increasing labor, waste disposal, and other costs on dairy farms and to increasing demand for cheese. On the basis of this reevaluation, it has been determined that the proposed support price is necessary in order to assure an adequate supply.

The Agricultural Act of 1970 amended section 201(c) of the Agricultural Act of 1949, effective with respect to the period from April 1, 1971, through March 31, 1974, to read as follows:

The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through purchases of milk and the products of milk.

Since the Act does not define "adequate supply," the determination of what constitutes an adequate supply and the determination of the

level necessary to assure an adequate supply are solely within the judgment of the Secretary and are final and conclusive.

An appropriate form of resolution is attached.

A handwritten signature in cursive script, appearing to read "Edward M. Seelman", with a long horizontal flourish extending to the right.

EDWARD M. SELMAN
General Counsel

Attachments

STATEMENT OF INFORMATION SUBMITTED
ON BEHALF OF PRESIDENT NIXON

H E A R I N G S

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803

A RESOLUTION AUTHORIZING AND DIRECTING THE COMMITTEE
ON THE JUDICIARY TO INVESTIGATE WHETHER SUFFICIENT
GROUNDS EXIST FOR THE HOUSE OF REPRESENTATIVES TO
EXERCISE ITS CONSTITUTIONAL POWER TO IMPEACH

RICHARD M. NIXON

PRESIDENT OF THE UNITED STATES OF AMERICA

Book IV

WHITE HOUSE SURVEILLANCE ACTIVITIES



MAY-JUNE 1974

Y1. J89/1 : In 3/2/2011.7

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1974

COUNSEL TO THE PRESIDENT

JAMES D. ST. CLAIR, *Special Counsel to the President*

JOHN A. MCCAHERILL, *Assistant Special Counsel*

MALCOLM J. HOWARD, *Assistant Special Counsel*

FOREWORD

By Hon. Peter W. Rodino, Jr., Chairman
Committee on the Judiciary

On February 6, 1974, the House of Representatives adopted by a vote of 410-4 the following House Resolution 803:

RESOLVED, That the Committee on the Judiciary acting as a whole or by any subcommittee thereof appointed by the Chairman for the purposes hereof and in accordance with the Rules of the Committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

On May 9, 1974, as Chairman of the Committee on the Judiciary, I convened the Committee for hearings to review the results of the Impeachment Inquiry staff's investigation. The hearings were convened pursuant to the Committee's Impeachment Inquiry Procedures adopted on May 2, 1974.

These Procedures provided that President Nixon should be afforded the opportunity to have his counsel present throughout the hearings and to receive a copy of the statement of information and related documents and other evidentiary material at the time that those materials are furnished to the members.

Mr. James D. St. Clair, Special Counsel to the President, was present throughout the initial presentation by the Impeachment Inquiry staff. Following the completion of the initial presentation, the Committee resolved, in accordance with its Procedures, to invite the President's counsel to respond in writing to the Committee's initial evidentiary presentation. The Committee decided that the President's response should be in the manner of the Inquiry staff's initial presentation before the Committee, in accordance with Rule A of the Committee's Impeachment Inquiry Procedures, and should consist of information and evidentiary material, other than the testimony of witnesses, believed by the President's counsel to be pertinent to the inquiry. Counsel for the President was likewise afforded the opportunity to supplement its written response with an oral presentation to the Committee.

President Nixon's response was presented to the Committee on June 27 and June 28.

One notebook was furnished to the members of the Committee relating to White House surveillance activities. In this notebook a statement of information relating to a particular phase of the investigation was immediately followed by supporting evidentiary material which included copies of documents and testimony (much already on the public record) and transcripts of Presidential conversations.

The Committee on the Judiciary is working to follow faithfully its mandate to investigate fully and completely "whether or not sufficient grounds exist" to recommend that the House exercise its constitutional power of impeachment.

Consistent with this mandate, the Committee voted to make public the President's response in the same form and manner as the Inquiry staff's initial presentation.

A handwritten signature in black ink, appearing to read "Peter W. Rodino". The signature is written in a cursive, flowing style with a large initial "P" and a prominent "W".

July, 1974

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INTRODUCTORY NOTE

The material contained in this volume is presented in two sections. Section 1 contains a statement of information footnoted with citations to evidentiary material. Section 2 contains the same statement of information followed by the supporting material.

Each page of supporting evidence is labeled with the footnote number and a description of the document or the name of the witness testifying. Copies of entire pages of documents and testimony are included, with brackets around the portions pertaining to the statement of information.

In the citation of sources, "SSC" has been used as an abbreviation for the Senate Select Committee on Presidential Campaign Activities and "KCH" for the Senate Judiciary Committee Hearings on the nomination of Richard Kleindienst to be Attorney General.

STATEMENT OF INFORMATION
SUBMITTED ON BEHALF
OF THE PRESIDENT

WHITE HOUSE SURVEILLANCE ACTIVITIES

1. On June 5, 1971, Ehrlichman sent a memorandum to Dean in which he stated there was a recent episode in which information was leaked to a newspaperman and asking whether this is in violation of any statute and also if there is any oath or commitment taken by intelligence people regarding secrecy of information in their possession. Tod Hullin inquired of Dean as to the status of this request in a memorandum dated June 25, 1971. Dean inquired of Hullin on June 29, 1971, whether in light of the New York Times matter the report was still wanted. On July 2, 1971, Dean forwarded this memorandum for Ehrlichman, dated June 16, 1971, to Hullin.

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1b. Memorandum from Tod Hullin to Dean, June 25, 1971.....	39
1c. Note from Dean to Hullin, with attachment, July 2, 1971.	40

2. The Special Investigative Unit was established to deal with the problem of security leaks and only afterwards did it become a field operative investigative force, because, in part, of problems arising with the FBI.

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2a. John Ehrlichman testimony, 6 SSC 2529, 2531...	44
2b. Charles Colson affidavit, <u>United States v. Ehrlichman</u> , April 29, 1974, 1-2.....	47
2c. John Ehrlichman affidavit, April 30, 1973	56

3. On June 30, 1971, General Haig sent a memorandum to the heads of all U. S. Departments and Agencies indicating the President's request for a security clearance review.

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3a. Memorandum from Haig to Heads of all Departments and Agencies, June 30, 1971.....	68

4. Colson, during the period immediately following the Pentagon Papers disclosure, was responsible for analyzing the accuracy of the Pentagon Papers and the relationship between the White House and the Congressional Committees that were planning to investigate this affair. In late June, Haldeman asked him to find a person who could assume full-time responsibility for these functions. E. Howard Hunt was finally chosen for this position.

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4a. Charles Colson testimony, Grand Jury, <u>People v. Ehrlichman</u> , June 8, 1973, 628-630.....	72

5. On July 2, 1971, Colson sent a memorandum to Haldeman with an attachment containing a portion of Alexander Bickel's argument before the Supreme Court.

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5a. Memorandum from Colson to Haldeman, July 2, 1971,	76

6. On July 3, 1971, Colson sent a memorandum to Ray Price setting forth several points the President wanted included in a Presidential statement.

	Page
6a. Memorandum from Colson to Price, July 3, 1971.....	82

7. On or about July 15, 1971, Ehrlichman told Krogh to begin this "special" national security project. While Krogh was under the overall aegis of Ehrlichman, he did not regularly report to Ehrlichman.

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7a. Earl Krogh affidavit, <u>United States v. Krogh</u> , May 4, 1973, 1.....	86
7b. John Ehrlichman testimony, Grand Jury, <u>People v.</u> <u>Ehrlichman</u> , June 8, 1973, 546-47.....	94

8. On July 16, 1971, Colson sent a memorandum to Ehrlichman indicating that according to a report from Frank Stanton the FBI made an extensive investigation of the Rand Corporation centering on an alleged leak of documents by Ellsberg and the FBI had a "solid case" but the FBI elected not to act.

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8a. Memorandum from Colson to Ehrlichman, July 16, 1971.....	98

9. The FBI made two unsuccessful attempts to interview
Dr. Lewis Fielding on July 20 and 26, 1971.

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9a. Dr. Lewis Fielding testimony, Grand Jury <u>People v. Ehrlichman</u> , June 8, 1973, 98, 100	100

10. On July 21, 1971, David Young attended a meeting at CIA headquarters, Langley, Virginia, discussing the CIA's involvement with the Pentagon Papers.

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10a. Memorandum of conversation, July 21, 1971..... 104

11. On July 24, 1971, the President held a meeting with Ehrlichman and Krogh, to discuss efforts to identify the source of the SALT leak and the use of a polygraph on State Department personnel suspected of being the source of the leak. The President did not authorize the use of illegal means by the Unit.

	Page
11a. President Nixon Statement, May 22, 1973, 9 Presidential Documents, 695..	110
11b. President Nixon Statement, August 15, 1973, 9 Presidential documents, 993.....	111
11c. John Ehrlichman testimony, Grand Jury, <u>People v. Ehrlichman</u> , June 8, 1973, 545.....	112
11d. Egil Krogh's letter of resignation, May 9, 1973, <u>New York Times</u>	113
11e. Egil Krogh Statement, November 30, 1973.....	114

12. On July 26, 1971, David Young attended a meeting at the State Department to discuss the specifics related to the preparation of the Pentagon Papers.

12a. Memorandum for the record, July 26, 1971. . . . Page 116

13. On July 26, 1971, Colson sent a memorandum to Ehrlichman recommending that a study be prepared of Top Secret leaks that appeared in the New York Times and suggesting that Krogh and Young could do this.

13a. Memorandum from Colson to Ehrlichman, July 26, 1971.. 120 Page

14. On July 28, 1971, Young prepared a memorandum for the record summarizing a meeting he attended concerning overall White House direction of the matters surrounding the Ellsberg inquiry.

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14a. Memorandum for the record, July 28, 1971.....	122

16. On July 30, 1971, Krogh and Young sent a memorandum to Ehrlichman on the status of the Ellsberg inquiry.

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15a. Memorandum from Krogh and Young to Ehrlichman, July 30, 1971.....	126

16. On August 2, 1971, Young attended a meeting at CIA head-
quarters to discuss the problem of leaks.

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16a. Young Memorandum for the record, August 9, 1971.. 130

17. On August 13, 1971, Young and Krogh sent a memorandum to Ehrlichman indicating that an attached newspaper article endangered the life of a clandestine CIA operative.

	Page
17a. Memorandum from Egil Krogh and David Young to John Ehrlichman, August 13, 1971.....	134

18. Ehrlichman testified that he first learned of the Ellsberg **break-**
in when he returned from a vacation on Cape Cod and that was a few
days after the event.

	Page
18a. John Ehrlichman testimony, 6 SSC 2536,	138

19. Following a National Security Council meeting on March 29, 1969, the President directed that the several studies be conducted in alternative solutions to the Vietnam War. One alternative to be studied was a unilateral troop withdrawal. The study directive was issued on April 1, 1969 and on April 6, 1969, the New York Times printed an article by Max Frankel indicating that the United States was considering unilateral withdrawal from Vietnam. At the time the article was published no official discussions regarding this alternative had been taken up with the government of South Vietnam.

		Page
19a	Article by Max Frankel, "Nixon Has Begun Program To End War In Vietnam," <u>New York Times</u> , April 6, 1969, p. 1, col. 8.....	140
19b	Henry A. Kissinger affidavit, (<u>In Camera</u>). <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 2-3.....	143

On June 3, 1969, shortly after the decision had been reached to begin withdrawal of troops from Vietnam, George Sherman reported the decision in The Evening Star and indicated that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu. Hedrick Smith made a similar advance release in the June 4, 1969, New York Times. The decision to begin withdrawing troops had not been formally discussed with the South Vietnamese at the time of the disclosure.

	Page
20a Article by Hedrick Smith, "Nixon-Thieu Talk May Bring Accord on U.S. Troop Cut", <u>New York Times</u> , June 4, 1969, p. 1, col. 1.....	154
20b Article by George Sherman, "President Heads Westward, Talk of Troop Cut Grows", <u>The Evening Star</u> , June 3, 1969.....	156
20c Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 2-3.....	158

21. In early March, 1969, a decision was reached to conduct B-52 raids into Cambodia. These raids were conducted secretly to maintain the tacit approval of neutralist Cambodian Prince Norodom Sihanouk.

However, on May 6, 1969, William Beecher accurately reported these raids in the New York Times jeopardizing the relationship with Prince Sihanouk.

	Page
21a Article by William Beecher, "Raids In Cambodia By U.S. Unprotected", <u>New York Times</u> , May 9, 1969, p. 1, col. 8.....	162
21b Henry A. Kissinger affidavit, (<u>In Camera</u>). <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 3-4.....	164

22. In the May 1, 1969, New York Times, William Beecher reported the five strategic options under study for the SALT negotiations with close estimates of the costs for each option. These options were published before they were considered by the National Security Council

	Page
22a Article by William Beecher, "Administration Gets Study of Global Nuclear Strategy", <u>New York Times</u> , May 1, 1969, p. 1, col. 1.....	168
22b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6:.....	170

23. On June 18, 1969, L. I. U.S. Times, Peter Grose re-
ported on the secret official estimates for the first strike capabilities
of the Soviet Union. This was published during the SALT negotiations
thereby prematurely revealing the intelligence basis upon which the
United States was developing its SALT position.

	Page
23a Article by Peter Grose, "U.S. Intelligence Doubts Soviet First-Strike Goal", <u>New York Times</u> , June 18, 1969, p. 1, col. 2.....	174
23b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6.....	176

24. Hedrick Smith, in the June 3, 1969, edition of the New York Times, reported that the President had determined to remove nuclear weapons from Okinawa in the upcoming negotiations with Japan over the reversion of the Island. The article stated that the President's decision had not yet been communicated to Japan, thereby preempting the possibility of obtaining a more favorable outcome during the negotiations.

	Page
24a Article by Hedrick Smith, "U.S. Said To Plan An Okinawa Deal Barring A-Bombs", <u>New York Times</u> , June 3, 1969, p. 1, Col. 5.....	180
24b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, p. 6.....	182

25. Morton Halperin was chief of the National Security Council planning group and therefore was one of several persons having access to the information which leaked. In this position and during his tenure as consultant to the NSC, Dr. Halperin received extensive exposure to classified information much of which remains confidential to this day. Dr. Halperin was removed from access to sensitive material regarding national security matters following publication of one of the Beecher articles in the New York Times.

	Page
25a Morton Halperin affidavit, <u>Halperin v. Kissinger</u> , D.C.D.C., C.A. No. 1187-73, signed November 30, 1973.....	184
25b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-72, signed November 26, 1973, pp. 7-9.....	188

*NOTE: THERE WAS NO PARAGRAPH 26 IN
THE NOTEBOOK PRESENTED TO THE
COMMITTEE ON THE JUDICIARY.*

27. A letter dated September 12, 1973 from Attorney General Elliot Richardson to the Senate Foreign Relations Committee referring to the placement of these seventeen national security wiretaps stated that "the Department of Justice scrupulously observes the law as interpreted by the courts."

	Page
27a Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973.....	194

28. There was clear legal authority on the legality of warrantless national security wiretaps at the time the seventeen wiretaps were conducted.

- 28a United States v. Clay, 430 F.2d 165 (5th Cir. 1970), reversed on other grounds, 403 U.S. 698 (1971).
- 28b United States v. Brown, 317 F. Supp. 531 (E.D. La. 1970), affirmed, 484 F.2d 418 (5th Cir. 1973).

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

29. After the termination of these seventeen taps, the Supreme Court stated that the legality of foreign policy warrantless wire-tapping was an open question. Attorney General Richardson has indicated that under these circumstances, the Department of Justice can reasonably rely on decisions of lower courts in justifying these wiretaps. Under current legal standards, warrantless foreign policy wiretapping is legal.

		Page
29a	<u>United States v. United States District Court</u> , 407 U.S. 297 (1972).	
29b	Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973.....	200
29c	<u>United States v. Butenko</u> , 494 F.2d 593 (3rd Cir. 1974).	

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE LAST SENTENCE IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

On May 31, 1974 the court-appointed panel of experts filed final report on the 18 1/2-minute gap on the June 20, 1972 EOB

One of the bases supporting the panel's final conclusions is the opinion that the Uher 5000 recorder used by Rose Mary Woods functioning normally when it produced the erasure and on the June 20, 1972 EOB tape.

	Page
30 a. <u>The EOB Tape of June 20, 1972, Report for a Technical Investigation, Conducted for the U. S. District Court for the District of Columbia by the Advisory Panel on White House Tapes, May 31, 1974, p. 3.....</u>	204

31. Stanford Research Institute, Dektor Government Clearance and Security, Inc. and Home Services, Inc. believe that the Uher 5600 was malfunctioning at the time the erasure on the June 23, 1972 EOB tape was produced. They also disagree with the panel's conclusion that the erasure was produced exclusively by keyboard manipulation and not by internal machine malfunction.

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31a. SRI Report of May 31, 1974, p. 4-6.....	208
31b. Dektor Report of May 30, 1974.....	217
31c. Home Services, Inc. Report of May 24, 1974.....	218
31d. <u>In Re Grand Jury</u> , Misc. 47-73, Sealed Transcript of testimony of Mark Weiss, member of the panel of experts, January 15, 1974, 25-28.....	219

32. Hallerman's contemporaneous notes of his June 20, 1972 meeting with the President do not reflect that the President had prior knowledge of the Watergate burglary or was aware of any subsequent cover-up.

	Page
32 a. <u>In re Grand Jury</u> , Misc. 47-73, Tr. 1307, 1308..	224

STATEMENT OF INFORMATION
AND
SUPPORTING EVIDENCE
SUBMITTED ON BEHALF
OF THE PRESIDENT

WHITE HOUSE SURVEILLANCE ACTIVITIES

1. On June 5, 1971, Ehrlichman sent a memorandum to Dean in which he stated there was a recent episode in which information was leaked to a newspaperman and asking whether this is in violation of any statute and also if there is any oath or commitment taken by intelligence people regarding secrecy of information in their possession. Tod Hullin inquired of Dean as to the status of this request in a memorandum dated June 25, 1971. Dean inquired of Hullin on June 29, 1971, whether in light of the New York Times matter the report was still wanted. On July 2, 1971, Dean forwarded this memorandum for Ehrlichman, dated June 16, 1971, to Hullin.

		Page
1a.	Memorandum from Ehrlichman to Dean, June 5, 1971.....	38
1b.	Memorandum from Tod Hullin to Dean, June 25, 1971.....	39
1c.	Note from Dean to Hullin, with attachment, July 2, 1971.	40

JUL 15, 1971

FOR JOHN DEAN

Apparently the cover of the copy in which the article
gained through reliable or other intelligence material was
linked to a newspaper article.

Why the President's administration would like to see a
statement, if it is, would you like to see the article and this
copy published either on cover or inside by the newspaper
people regarding accuracy of information coming to their
hand.

John F. DeLoach

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

JUNE 25, 1971

To: Tod Hullin



FOR JOHN DEAN

Could you let us know when we will have something on the attached?

Many thanks.

Tod Hullin

Attachment

Tod -
I had drafted a response
to this when the N.Y. Times matter
broke - I think this response
needed by the Times case, but
if you want my earlier draft
please let me know
6/29

THE WHITE HOUSE
WASHINGTON

JUL 2 1971

th

700 —

Attached is the draft
which I prepared
before the Times
case developed —

[Signature]

any document or photograph relating to the national defense, or any information which "could be used" against the United States, from delivering or communicating such material to any unauthorized person. (This section applies whether the access is authorized or unauthorized; it also penalizes the loss of such material by persons entrusted with it, and the receipt of such material by anyone with reason to believe it has been obtained by means or will be disposed of in a way prohibited by the statute.)

18 U.S.C. 794: This statute prohibits the communication of any material relating to the national defense to any foreign national or agent, if he has reason to believe it will be used to injure the United States or to the advantage of any foreign government.

It has been held that the term "national defense" is a generic concept of broad connotations and referred to the military and naval establishments and the related activities of national preparedness. It is not clear whether this would apply to information relating to the defense establishment of a foreign country, although we believe it would be so extended in a proper case.

Section 798 prohibits disclosure of classified information concerning foreign codes, or American intelligence activities relating to foreign codes and communications. As drafted, however, it would not apply to disclosures relating to satellite or other intelligence activities or information obtained thereby. This may be deemed an omission worthy of correction.

Certain regulations have also been adopted by each branch of the military for the protection of classified information by persons within their supervision. These regulations set forth the conditions under which classified or other defense material may be disclosed to others. Disclosure under conditions other than those set forth would constitute a breach of the regulations. Violation of these regulations is a court-martial offense under the U.C.M.J.

CONCLUSION:

The United States has no law similar to England's Official Secrets Act, and therefore, prosecution of civilians for disclosure of classified materials generally requires proof of disloyal intent. Military personnel may generally be court-martialed for violation of regulations governing classified materials. Certain administrative remedies relating to employment are, of course, always available.

2. The Special Investigative Unit was established to deal with the problem of security leaks and only afterwards did it become a field operative investigative force, because, in part, of problems arising with the FBI.

	Page
2a. John Ehrlichman testimony, 6 SSC 2529, 2531...	44
2b. Charles Colson affidavit, <u>United States v. Ehrlichman</u> , April 29, 1974, 1-2.....	47
2c. John Ehrlichman affidavit, April 30, 1973	55

Mr. DASH. Well, after the Huston plan did not go forward, as you understood it to be, were you assigned a role to create in the White House a capability for intelligence-gathering at any time?

Mr. EHRLICHMAN. I do not know quite what you are getting at. If you are getting at the special unit and the problems of leaks---

Mr. DASH. I do not know why you have to find out what I am getting at, if you just answer my question as I ask it.

Mr. EHRLICHMAN. It is an obscure question.

Mr. DASH. It is a simple question. If the answer is "No," say "No." If the answer is "Yes," say "Yes."

Mr. EHRLICHMAN. Would you restate the question for me, please?

Mr. DASH. I said, did there come a time when you were asked to develop a capability in the White House for intelligence-gathering?

Mr. EHRLICHMAN. Intelligence-gathering, the answer would be "No."

Mr. DASH. All right.

Now, you were trying to see what I was getting at. Were you ever asked to set up a special unit in the White House for the purpose of determining whether certain leaks had occurred in major national security areas?

Mr. EHRLICHMAN. In point of fact I was--and strictly in terms of your question, I was not asked to set it up. Mr. Krogh was asked to set it up.

Mr. DASH. Who is Mr. Krogh?

Mr. EHRLICHMAN. Bud Krogh, Egil Krogh, Jr., was a member of the Domestic Council staff, and he was asked by the President to form this special unit. I was designated as one to whom Mr. Krogh could come with problems in connection with it, and the President said also that he could come to him with problems.

Mr. DASH. Were you in at the beginning of the setting up of this plan?

Mr. EHRLICHMAN. Yes, I was.

Mr. DASH. And you knew what the unit was to do?

Mr. EHRLICHMAN. Yes.

Mr. DASH. What was the unit to do?

Mr. EHRLICHMAN. The unit as originally conceived was to stimulate the various departments and agencies to do a better job of controlling leaks and the theft or other exposure of national security secrets from within their departments. It was a group which was to bring to account, so to speak, the various security offices of the Departments of Defense, and State, and Justice, and CIA, to get them to do a better job.

Mr. DASH. And, therefore, this unit was to gather facts, if there was a leak or to act as a deterrent. I take it, to prevent leaks.

Mr. EHRLICHMAN. No, there would have been no need to gather facts under that concept, except to know that there had been an occurrence, but to require vigorous and very active effort on the part of the responsible people in the departments and agencies to find out who was responsible and how it happened and to make sure it couldn't happen again.

Mr. DASH. Isn't that getting facts. If you were seeking to find out who was responsible and the unit was looking for it, wouldn't you be wanting to get facts?

2530

Mr. EHRLICHMAN. I am sorry, you were asking us to intelligence?
Mr. DASH. You are jumping again ahead of me. I didn't say intelligence, I said facts.

Mr. EHRLICHMAN. All right, facts in that sense, but limited to that.

Mr. DASH. All right. Would you say some people who go to seek facts in an investigative way can also say they seek intelligence?

Mr. EHRLICHMAN. Well, but you see what I am trying to say to you is as originally set up and conceived this was not an investigative unit in the sense that your question implies. It was far more a group that was established for the purpose of getting the security people in the departments and agencies to do a better job of their job.

Mr. DASH. Was it ever called or was it ever referred to as an investigative unit?

Mr. EHRLICHMAN. Subsequently it was because it became an investigative unit subsequently.

Mr. DASH. So there came a time when you were administering an investigative unit?

Mr. EHRLICHMAN. Yes, in a literal sense, that is true.

Mr. DASH. Literal sense?

Mr. EHRLICHMAN. Yes, sir.

Mr. DASH. Not in an actual sense?

Mr. EHRLICHMAN. Well, here I am dueling with a professor.

Mr. DASH. I am not dueling with you. I am just trying—

Mr. EHRLICHMAN. Professor, if you say actual, it is actual.
[Laughter.]

Mr. DASH. I don't want you to take my questions and I don't want to put words in your mouth.

Mr. EHRLICHMAN. Sure, I am trying to give you—

Mr. DASH. I really want to have you answer to the best of your recollection.

Mr. EHRLICHMAN. Sure, I am trying to give you the real essence of this as we go along and I don't mean to be fencing over words.

Mr. DASH. Could you please tell us in as clear a way as you can what the responsibilities of this particular unit were both in the beginning and how it developed, and as it developed later?

Mr. EHRLICHMAN. I told about the beginning of it. Let me tell you how it evolved. At a point in time in connection with the Pentagon Papers theft, a whole series of events took place. One of the first of them was that the Pentagon Papers, which were marked secret and top secret and which were Defense Department, largely Defense Department documents, were turned over to the Russian Embassy. I knew this because I had a call from Mr. Mardian, the Assistant Attorney General, advising me that the Justice Department had this firm fact. The Attorney General came over and reported to the President that this theft had evidently been perpetrated by a number of people, a conspiracy, and that some of the people were identified by the Department of Justice as having had previous ties to domestic communist activities.

The Attorney General then reported in response to an inquiry, and maybe I had better tell you how the inquiry came up. Mr. Krogh came to me and said "I am having real trouble getting the FBI to move on this." And so I said "Well" and basically my function was to do downfield blocking for Mr. Krogh when he had problems in the Department.

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I said "OK, I will contact the Attorney General and see what I can do," which I did. The Attorney General called me back and he said:

We have a very tough problem here. It appears that a top man in the FBI put in a routine request that Mr. Ellsberg's father-in-law be interviewed. The Director has given that top man notice that he is going to be transferred and demoted, and he has further given notice that that interview and interviews of that family are not to take place.

Now this was the area in which Mr. Krogh and the special unit were pressing for the Department of Justice to bring information together as was their job to do. The Attorney General said "I am going to reverse this decision on the part of the Director to transfer this man and demote him" but he said "We have a very touchy situation with the Director. Mr. Sullivan in the Bureau is extremely upset and concerned and disagrees strongly with the Director in this matter, I don't know but what Mr. Sullivan may quit as a result of this whole episode, it's very touchy within the Bureau." I said "What are our chances of getting the Bureau to move ahead on this right away," and he said "Very slim or none."

So it was very--this set of facts, and the real strong feeling of the President that there was a legitimate and vital national security aspect to this, that it was decided, first on Mr. Krogh's recommendation, with my concurrence, that the two men in this special unit who had had considerable investigative experience, be assigned to follow up on the then leads and rather general leads which were in the file.

Mr. DASH. Who were these two men?

Mr. EHRLICHMAN. Hunt and Liddy.

Mr. DASH. Now, did you know Mr. Hunt or Mr. Liddy?

Mr. EHRLICHMAN. I had met Mr. Hunt once briefly. I had never met Mr. Liddy.

Mr. DASH. Did you meet him or come in contact with him during the time he worked in the special unit?

Mr. EHRLICHMAN. No.

Mr. DASH. At no time?

Mr. EHRLICHMAN. I don't believe I have ever met him.

Mr. DASH. Now--

Mr. EHRLICHMAN. Wait a minute, I will take that back. He may have been in my office once, and I can't say whether it was before or after, in connection with a project that Mr. Krogh was working on relating to the organization of the Justice Department which was his area of responsibility. It is possible that Liddy attended that meeting. I have a vague recollection of that.

Mr. DASH. Now, Mr. Young also worked in this unit, did he not?

Mr. EHRLICHMAN. Yes.

Mr. DASH. And he worked under Mr. Krogh?

Mr. EHRLICHMAN. He worked as a kind of a cochairman.

Mr. DASH. What was the reporting relationship between Mr. Young and Mr. Krogh to you?

Mr. EHRLICHMAN. Well, Mr. Krogh, of course, was on my staff, and maintained the same reporting relationship to me that he had always maintained. Mr. Young began reporting to me at the time that he joined that special unit.

Mr. DASH. You say the same reporting relationship. Was this a regular reporting relationship?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED ✓

APR 29 1974

UNITED STATES OF AMERICA)

JAMES E. DAVEY, Clerk

v.)

Criminal No. 74-116

JOHN D. EHRLICHMAN, et al:)

Defendants)

AFFIDAVIT

District of Columbia, ss.:

CHARLES W. COLSON, being duly sworn, deposes and says:

1. I submit this affidavit pursuant to the Court's Order of April 19, 1974, and in support of my Motion for Discovery pursuant to Rule 16 of the Federal Rules of Criminal Procedure.

2. I was in several meetings with the President in the period following the publication in the Press of the "Pentagon Papers" in the New York Times, the Washington Post and other papers. The Presidential logs show meetings and telephone calls between the President and me (sometimes with others present) on the following dates: June 15, 16, 17, 23, 25, 28, 29, 30, July 1 and July 2, 1971. During that period (I cannot establish which of the aforementioned meetings or calls are relevant although I believe many are) the President repeatedly emphasized the tremendous gravity of the leaks and his concern that Ellsberg and/or Ellsberg's associates might continue the pattern. I can remember the President saying on a number of occasions that if the leaks

were to continue, there could be no "credible U. S. foreign policy" and that the damage to the Government and to the national security at a very sensitive time would be severe. He referred to many of the sensitive matters that were then either being negotiated or considered by the Administration, e.g., SALT, Soviet detente, the Paris peace negotiations and his plans for ending the war in Vietnam. (He had earlier made me aware of his desire to visit the Peoples Republic of China.) During the two weeks following the publication of the Pentagon Papers, I also met with Dr. Kissinger, Mr. Ehrlichman and Mr. Haldeman. On several occasions, Dr. Kissinger would arrive at our meeting having just come from meeting with the President. Dr. Kissinger was even more alarmed over the leaks than the President. He believed that the leaks must be stopped at all costs, that Ellsberg must be stopped from making further disclosures of classified information, and that those acting in concert with him must be stopped. Dr Kissinger also reported on Ellsberg's private habits and certain of his activities in Vietnam. I had the clear impression that Dr. Kissinger was reacting to conversations he had had at various times with the President; basically his concern was very similar to the President's: that Ellsberg's activities or the activities of those acting with him or pursuant to his example, could undermine the most critical and sensitive foreign policy negotiations. At various times thereafter both the President and Dr. Kissinger voiced their great concern over leaks of sensitive information that could undermine vital national security matters. The President from time to time expressed his dissatisfaction with the aggressiveness of the investigations being conducted of Dr. Ellsberg and others (early August 1971).

3. In late June 1971, perhaps June 28, 29, 30 or even July 1st (the Presidential logs are, I believe, incomplete), I had several discussions with the President regarding the possibility of still further security leaks. During at least one of these discussions Mr. Haldeman was also present. On that occasion, the President, speaking to Mr. Haldeman and to me, said in effect: I don't give a damn how it is done, do whatever has to be done to stop these leaks and prevent further unauthorized disclosures; I don't want to be told why it can't be done. This Government cannot survive, it cannot function if anyone can run out and leak whatever documents he wants to. We will be destroyed in the negotiations that we have underway with the Soviet Union; we will never be able to stand up against the Soviet Union; people's lives are at stake in Vietnam. I want to know who is behind this and I want the most complete investigation that can be conducted. At one point the President asked Mr. Haldeman whether the White House had the capacity to handle this. Haldeman said it was being established. The President went on: I want to know how and why the "counter-government" is at work. If we do not stop them, if we do not find out who is involved and why, we will endanger everything that this Government is trying to do in the most sensitive foreign policy and national security areas. I don't want excuses, I want results. I want it done, whatever the cost.

4. During this period, as in all other periods, the President had a habit of making memoranda at night for Mr. Haldeman and dictating dictabelts of what went on during the day. Accordingly, during the period of mid-June to the end of July 1971, there should be notes and memos, including instructions to Mr.

Haldeman, Mr. Ehrlichman, Dr. Kissinger and others dealing with this matter. These notes and memos would be part of the Staff Secretary's files or Mr. Haldeman's files or Rose Wood's files. If not, they would be found in the files of the secretary in Mr. Haldeman's office who used to transcribe these belts and who should have kept records of such notes and memos. Based on my knowledge of the President's habits, I believe that these notes, memos and written instructions should be somewhere in the Presidential files.

5. After the Special Investigations Unit was established as a result of meetings in California, it was reported to me by Messrs. Ehrlichman and Krogh that the President had ordered the creation of such a unit, that it was to be located in the basement of the EOB, that it was to be operated under super-secret conditions; that there would be sterile phones, that special passes were to be required for entry and that all of this was consistent with the instructions the President had issued to stop leaks of classified national security information. I was told the unit was granted a broad charter to coordinate and supervise the intelligence activities of all agencies, directed to preventing leaks of such information. I thereupon concluded that the President had impressed upon Messrs. Ehrlichman and Krogh the same instructions he had given to Mr. Haldeman and me in late June, and in fact, had given them the authority and charter to conduct a full-fledged White House investigation in concert with other agencies such as the FBI and the CIA.

6. I was not present but I was and am aware of at least three meetings at which the Special Investigations Unit was given its

authorization. One was on July 15 on a helicopter returning from Los Angeles to San Clemente following the President's announcement of Dr. Kissinger's trip to China. Messrs. Haldeman, Ehrlichman, Kissinger and the President engaged in that discussion. There was a subsequent meeting on July 17 in San Clemente, to which Mr. Krogh as testified. There was also a meeting in San Clemente on July 12 at which Mr. Robert Mardian was present. There was also the July 24th meeting with the President in Washington, attended first by Mr. Ehrlichman and later by Mr. Krogh. I know there was a subsequent meeting between the President and J. Edgar Hoover at which the charter of the Special Investigations Unit was discussed. I believe that there were similar meetings with Messrs. Mitchell, Helms, Rogers and Laird or, if the President was not present, Mr. Ehrlichman conducted such meetings at the President's direction.

7. On or about April 18, 1973, at the suggestion of my counsel, I had a conversation with Mr. Ehrlichman concerning the national security restrictions, if any, that would prevent my discussing with the United States Attorney's office my knowledge of the Special Investigations Unit and its activities. Mr. Ehrlichman said that he had discussed the matter with the President. According to Mr. Ehrlichman, the President, in Mr. Ehrlichman's presence, had telephoned Assistant Attorney General Henry Peterson, at which time the President told Mr. Peterson that he, the President, had authorized the Special Investigation Unit to investigate Dr. Ellsberg on national security grounds, that he had approved the "Ellsberg operation" after consultation with J. Edgar Hoover, and that Mr. Peterson should not pursue the matter any further. Mr. Ehrlichman then told me that the national security restrictions

about which I had inquired were still very much applicable and that I was not at liberty to discuss the matter with the United States Attorney's office - or with anyone else.

Contemporaneous Knowledge

8. During the period June through October 1971 and prior thereto, I had personal knowledge of the information listed below, which was obtained, in whole or in part, either from seeing particular documents, from having portions of such documents read to me, or from being told about either the subject matter or their contents. It is impossible, almost three years after the fact, to particularize the source or extent of my contemporary knowledge concerning each document or item of information without access to the documents in order to refresh my recollection.

- a. reports of various government agencies (i.e., DOD, CIA, FBI) concerning the delivery of "Pentagon Papers" to agents of the Soviet Union or other foreign governments;
- b. reports of various government agencies (i.e., the Internal Security Division, Department of Justice, and the FBI) concerning the suspicion that Dr. Ellsberg was acting on behalf of a foreign government in releasing classified information to the public;
- c. a meeting in late July 1971 at which the Attorney General reported to President Nixon that Dr. Ellsberg may have been part of a

domestic spy ring;

- d. CIA and FBI reports concerning the compromising of a CIA agent in Pakistan as a result of an August 13, 1971, New York Times dispatch;
- e. a report prepared by Admiral Noel Guylor and members of his staff detailing the damage to the national security which could be expected to result from the release of the "Pentagon Papers";
- f. a June 14, 1971, memorandum from J. Fred Buzhardt to the Attorney General detailing the national security concerns arising from unauthorized disclosures of classified information;
- g. communications from foreign governments -- such as Australia, Canada and Britain -- expressing concern over the inability of the United States Government to prevent unauthorized disclosures of classified information;
- h. communications from J. Edgar Hoover to Dr. Henry Kissinger expressing the view that certain persons leaking information to Dr. Ellsberg may have been part of a domestic spy ring;
- i. National Security Study Memorandum No. 1 (NSSM-1);
- j. other contingency plans for military operations in South East Asia;
- k. Strategic Intergrated Operations Plans (SIOP's);

- l. several documents submitted in camera to the United States Supreme Court in connection with New York Times Company v. United States, 403 U.S. 714 (1971), which were part of the "Pentagon Papers" but were never published, and which dealt with CIA agents in the field, U-2 overflights of China, and decoding information;
- m. secret negotiations by Dr. Kissinger in Paris concerning the Vietnam war;
- n. secret negotiations concerning a trip to China by President Nixon;
- o. secret negotiations in connection with the Strategic Arms Limitation Treaty;
- p. a 1970 FBI report of an investigation concerning the compromise or theft of secrets at the Rand Corporation;
- q. reports by the CIA concerning Dr. Ellsberg's activities in Vietnam;
- r. a psychological profile of Dr. Ellsberg supplied by the CIA;
- s. memoranda or the records of Dr. Kissinger and other national security council staff persons concerning meetings with or about Dr. Ellsberg;
- t. reports by various government agencies concerning leaks of classified national security information

during the period 1969 to 1971, including a CIA summary and analysis dated October 1971 submitted by Director Helms to the White House;

- u. reports by various government agencies concern- in the SALT leak of 1971, including polygraph tests of suspects, reports of investigations, and the disposition of personnel who were identified as being responsible;
- v. numerous conversations between Dr. Kissinger, on the one hand, and President Nixon, Mr. Ehrlichman, Dr. Ellsberg, Secretary Laird, Director Helms and General Haig, on the other, concerning the SALT leak or the leak of the Pentagon Papers in July 1971;
- w. reports by government agencies concerning Dr. Ellsberg's relationship with a security officer at Rand as a result of which he had gained access to extensive highly classified strategic information and SIOP's;
- x. reports of contacts between the CIA and the Special Investigations Unit and reports of contacts between the CIA and the Special Inves- tigation Unit.

Sworn before me this

29th day of April, 1974.

Donald E. Bevin
Notary Public

My Commission Expires November 30, 1977



CHARLES W. COLSON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED APR 30 1974

CR. CASE NO. 74-116 (Judge Gesell)

JAMES F. DAVEY
CLERK

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

JOHN EHRLICHMAN, et al.,)

Defendants)

AFFIDAVIT OF JOHN D. EHRLICHMAN

DISTRICT)
OF) SS:
COLUMBIA)

JOHN D. EHRLICHMAN, being duly sworn, on oath deposes
and says:

The following narrative account of the formation and
authorization of the investigation of the theft of the Pentagon
Papers and subsequent events, going to the question of the
President's instructions, authorization and approval, is made
in response to the Court's request of April 19, 1974.

The Pentagon Papers Theft:

In mid-June, 1971, it was learned at the White House
that part of the 47-volume secret study of the Viet Nam War
had been copied and delivered to the New York Times and other
papers.

In the week or ten days thereafter, I participated in several meetings with the President and Henry Kissinger. The latter told us about Daniel Ellsberg (known to have been the thief).

We were told he was a fanatic, known to be a drug abuser and in knowledge of very critical defense secrets of current validity, such as nuclear deterrent targeting.

Having never heard of Ellsberg before the theft of the Papers, my impression from Kissinger's description was that the Nation was presented with a very serious potential security problem beyond the theft of the largely historical Pentagon Papers. I later learned that the Papers themselves were believed by defense experts to contain vital secrets.

Dr. Kissinger told the President that the theft made very difficult our foreign relations with Allies with whom we shared classified information.

In these meetings both the President and Dr. Kissinger were obviously deeply concerned. The latter was quite agitated at times.

The President made very clear his instructions that the Department of Justice should seek restraint of publication of the Papers and should vigorously investigate to determine those guilty of their theft and compromise. I transmitted his instructions to the Attorney General and I believe he did so directly on several occasions.

The Apparent Conspiracy:

As the Justice Department investigation proceeded, I heard or was told several times that Ellsberg was a part of a conspiracy.

On July 6, 1971, the President and I met with the Attorney General. He told us that he believed Ellsberg had Communist ties and was part of a conspiracy. The President said, in substance, that we must learn who was involved and quickly bring them to justice.

At around the same time, the Assistant Attorney General for internal security called me to advise that an "intercept" established that some or all of the Papers had been delivered to the Soviet Embassy here. I told the President of this call.

F.B.I. reports (which I either saw or was told of) suggested that a group in Massachusetts had caused the Papers to be duplicated in Cambridge; one of them was believed to be an employee of the New York Times. Ellsberg worked in California at the time. I told the President of this F.B.I. advice.

The F.B.I.:

For some months prior to June, 1971, and virtually until his death, J. Edgar Hoover was the object of the President's criticism on a number of grounds: The F.B.I. Director refused to enlist the Bureau in the Administration's effort to suppress Narcotics Traffic; the President was known to feel that the F.B.I. effort against domestic sabotage and violence was inadequate; a file containing a complete catalogue of problems, marked "The

Company Director" exists in the possession of the Government.

In late June and early July, the F.B.I. effort in the Pentagon Papers case was the subject of Assistant Attorney General Mardian's strong criticism. On his assumption of responsibility in mid-July, Mr. Krogh joined in that criticism.

During this period the Attorney General advised me, and I told the President, that Mr. Hoover had disciplined one of the F.B.I.'s top officials for ordering an F.B.I. interview of Ellsberg's father-in-law. The disciplinary papers are known by me to be in the possession of the Government.

It is against this background that the Young-Krogh unit was established by the President and expressly given the job of investigating Ellsberg.

The Genesis of The Unit:

On July 2, 1971, the President instructed me:

- (1) To recruit someone to take full responsibility to "handle the Ellsberg case," or words of that substance, and to take charge of the investigation of the conspiracy;
- (2) To propose Richard Allen, formerly of the Kissinger staff, to do so, or seek alternate candidates; and
- (3) To "stick with domestic matters" myself, finding someone with whom the President could work directly on the leak problem.

-5-

Five days later, the President went to San Clemente without a choice having been made. Several people were asked to make suggestions.

At this time the concept was that the person chosen would lead and prod people in the Departments and Agencies, without direct White House involvement.

The President continued to urge vigorous attention to the problem of leaks of secrets. He stressed the great problem these leaks made for those charged with conducting Foreign Policy and maintaining National Defense.

The Damage Assessment:

As the litigation with newspapers progressed (June 15 - July 7), various damage assessments were prepared by experts. For example, the Director of the National Security Agency, Admiral Guyler, prepared in Affidavit form a description of how the Pentagon Papers Theft had damaged the Nation's security. This Affidavit was transmitted to the U.S. Attorney, Southern District of New York. The President was told of some of these assessments.

The Formation of The Unit:

On July 12, 1971, in his office at San Clemente, the President met with Assistant Attorney General Mardian and several others, including me.

He told the President of the progress of the Justice Department efforts, named others believed to be a part of the theft conspiracy, and described some of the damage from the theft.

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The President's sense of urgency was heightened by this meeting. He was not satisfied with Mr. Mardian's report and insisted upon an early designation of a White House man-in-charge.

Three days before David Young was proposed as a possible choice. The decision was made to make him jointly responsible with Egil Krogh (who was due in San Clemente from Viet Nam the following Friday).

I sent for Young to come from Washington; he arrived July 14. Dr. Kissinger then objected to Young being assigned to the Unit from his staff, on the ground that he had other proposed uses for him.

In a conversation among the President, Henry Kissinger and me (attended by H. R. Haldeman), July 15, the President decided Young should be assigned to the Unit.

On Saturday, July 17, I told Young and Krogh of the foregoing events, of the President's sense of urgency and his assignments. They were to immediately return to Washington, assimilate all current facts, decide how to stimulate the various Government Units to plug future possible leaks, decide how to move the Justice Department's Ellsberg-Conspiracy Investigation to an early and successful conclusion and be prepared to work directly with the President, at his option, or through me, if they needed help.

The President returned to Washington Sunday, July 18.

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The SALT Leak:

During the week of July 19, 1971, the media carried a story which disclosed this Country's secret negotiating strategy in the Strategic Arms Limitation Treaty negotiations with the Russians.

In my presence, both the President and members of the National Security Council staff expressed deep concern and even agitation about the damaging effect of this leak.

When the President discussed leaks with Egil Krogh and me, on July 24, 1971, he demanded that Krogh find those responsible for the SALT leak, resorting to polygraph tests regardless of Government employees' objections, and gave the clear impression to me that Krogh was to use extraordinary measures to carry out his assignment.

This conversation with Krogh left me with the belief that now Krogh had a one-on-one relationship with the President, which accomplished the assignment given me by the President July 2, to find someone to take over the Ellsberg matter.

Both before and after the Krogh meeting, July 24, the President also gave me instructions to pass along to Krogh and Young. Invariably when they made recommendations, jointly or severally, the President concurred. His only criticism of their effort was that it was not vigorous enough.

The Unit was ordered to investigate on some date which could probably be determined from my notes (now in the Government's custody). Mr. Krogh complained of the F.B.I.'s failure to cooperate fully in the Ellsberg investigation. I discussed

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the problem with the Attorney General. He advised me of a continuing problem with Mr. Hoover. I recall specifically Mr. Krogh complaining that the F.B.I. had not even designated the Ellsberg case as a primary or priority case.

I advised Krogh of my talk with the Attorney General, and he recommended that some of the Unit's people be sent out to quickly complete the California investigation of Ellsberg.

I told the President of these conversations, sometime between July 26 and August 5, as nearly as I can now reconstruct it.

He responded that Krogh should, of course, do whatever he considered necessary to get to the bottom of the matter--to learn what Ellsberg's motives and potential further harmful action might be.

I told Krogh, in substance, that he should do whatever he considered necessary.

On August 6, I left Washington for a period of 5 days.

August 11 was my first full day back in the office.

Sometime later, I initialled and wrote on a Memorandum, dated August 11, in which Krogh and Young proposed that the investigation include a covert attempt to learn what Ellsberg may have disclosed to Dr. Fielding. In my opinion, this was well within the President's mandate.

So far as I am personally concerned, I was not aware of any intent on anyone's part to break into Dr. Fielding's premises before that occurrence.

Statements Subsequent to March 20, 1973:

On at least two occasions, the President spoke about the Fielding break-in, in my presence.

April 18, 1973, between 7:00 and 8:00 P.M., the President was in Aspen Lodge, at Camp David. In my presence, he called Henry Peterson, then Assistant Attorney General.

Since April 15, the President had been working closely with Peterson on fast-breaking developments in the Watergate case.

It was clear to me that they were discussing the Fielding break-in.

The President said, in substance:

You and your Department stay out of that. That is strictly a National Security matter. I know you have to enforce the laws but as President, I have to protect the National Security and that comes first. As President, I am instructing you to take no action whatever on that matter.

When he hung up, the President told me they had been discussing the Fielding break-in. He said, in substance, that the break-in was in furtherance of National Security and fully justified by the circumstances; moreover, if Justice got into it, it would be just a matter of time before the WASAG-leak case would be public knowledge, and he would not permit such damage to the Joint Chiefs of Staff if he could prevent it.

On a date during the first few days in May, 1973, Egil Krogh asked me to secure the President's approval of his disclosure of the Ellsberg matter to Attorney General-designate Elliott Richardson.

I saw the President in the Oval Office.

He consented to Krogh doing so. At that time, he said,
in substance:

While I (the President) did not know of the break-in attempt in advance, I surely recognize the valid National Security reasons why it was done. I want Krogh to explain them carefully to Elliott who is new in the job.

The President indicated his after-the-fact approval of this effort to secure evidence of Ellsberg's motives and potential.

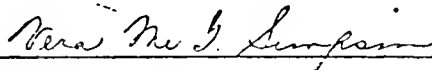
I expressed the hope that Krogh would not be permitted to suffer for an event which he had every reason to assume was within the scope of the President's charter to him.

The President gave me the impression that he would not.



JOHN D. EHRLICHMAN

SWORN TO AND SUBSCRIBED before me,
this 26th day of APRIL, 1974.



NOTARY PUBLIC

My Commission Expires: May 31, 1976

CERTIFICATE OF SERVICE

I hereby certify that on this 30 day of April, 1974,
true copies of the foregoing instrument were mailed, first class
postage prepaid, to the following:

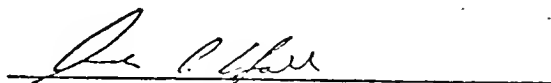
Leon Jaworski, Esq.
Special Prosecutor
1425 K Street, N. W. 9th Floor
Washington, D. C. 20005

David E. Schultz, Esq.
1025 Connecticut Avenue, N. W.
Washington, D. C. 20035

Peter Maroulis, Esq.
11 Cannon Street
Poughkeepsie, New York 12601

Dana Brigham, Esq.
The Brigham Building
Miami, Florida 33131

Sidney Dickstein, Esq.
1735 New York Avenue, N. W.
Washington, D. C. 20006



3. On June 30, 1971, General Haig sent a memorandum to the heads of all U. S. Departments and Agencies indicating the President's request for a security clearance review.

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3a. Memorandum from Haig to Heads of all Departments and Agencies, June 30, 1971.	68

THE WHITE HOUSE

WASHINGTON

June 30, 1971

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR

HEADS OF ALL U.S. DEPARTMENTS AND AGENCIES

SUBJECT: Security Clearance Review

The President has directed that the following actions be taken by each department and agency of the U.S. Government having authority and responsibility for the classification of information affecting the national defense and security, and for the granting of security clearance for access to such information, pursuant to the provisions of Federal laws, Executive Orders, Presidential Directives, and departmental regulations:

1. The submission of a report by June 30, July 10, 1971 providing the number of employees (those employable by the U.S. Government, those not employable by the U.S. Government, and those of private business concerns engaged in the performance of simulated contracts with the U.S. Government) who hold clearances for access to (a) Top Secret information, and (b) the various categories of compartmented intelligence data.

2. The compilation, by the end of July, of lists of the names of the holders of clearances in the Top Secret and compartmented categories referred to above broken down to indicate government or non-government employment.

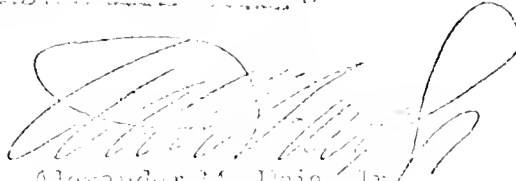
It is further directed that each responsible department and agency initiate at once a review and screening of each Top Secret and compartmented clearance presently held by individuals in the above employment categories with a view to effecting immediate reduction of all clearances which cannot be demonstrated to meet the requirements of actual need to know. Particular consideration is to be given to the screening of employees in the consultant and contracted categories.

ADMINISTRATIVELY CONFIDENTIAL

ADMINISTRATIVELY CONFIDENTIAL

-2-

Each responsible department and agency shall also initiate immediately a review of those individuals and organizations outside the government now retaining Top Secret or compartmented material with the aim of drastically reducing such non-governmental holdings.



Alexander M. Haig, Jr.
Brigadier General, U.S. Army
Deputy Assistant to the President
for National Security Affairs

ADMINISTRATIVELY CONFIDENTIAL



4. Colson, during the period immediately following the Pentagon Papers disclosure, was responsible for analyzing the accuracy of the Pentagon Papers and the relationship between the White House and the Congressional Committees that were planning to investigate this affair. In late June, Haldeman asked him to find a person who could assume full-time responsibility for these functions. E. Howard Hunt was finally chosen for this position.

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4a. Charles Colson testimony, Grand Jury, <u>People v. Ehrlichman</u> , June 8, 1973, 628-630.....	72

Kw14ba.

1 Q During that same part of the year, 1971, early
2 1971, did you know Mr. Egil Krogh?

3 A Yes, I did.

4 Q What did you understand his position to be?

5 A Deputy Assistant to the President for Domestic
6 Affairs; one of Mr. Ehrlichman's chief deputies.

7 Q Did it ever come to your attention that White
8 House personnel intended to initiate an investigation into
9 the sources of the Pentagon Papers disclosure?

10 A Yes, it did.

11 Q How did you learn this, sir?

12 A Well, I think it was discussed in -- in the early
13 part of July; and I may have been in meetings or in discussion
14 with the White House Staff, with regard to the investigative
15 aspects of the leak of the Pentagon Papers.

16 I had been involved in a prior phase of the
17 Pentagon Papers controversy, which was in the latter part of
18 June and the early part of July, which dealt more with an
19 analysis of the Papers themselves, their completeness, their
20 accuracy; and the relationship that would exist between the
21 White House and Congressional committees which were at that
22 time contemplating investigations into both the substance
23 and the -- and the source of -- both the substance of the
24 Papers and the origins of the Vietnam war.

25 The -- I was also involved in the liti -- in the
26 aspects of litigating the issue.

27 You use the term "investigative." And the
28 investigative mechanism, that really is something that

1 developed in -- in the first couple of weeks of July, I
2 think, the middle of July.

3 Q Did you have occasion, during those periods of
4 weeks, so to speak, to recommend Mr. Hunt for this kind
5 of investigative work?

6 A Not for the investigative -- well, for the --
7 for the work, in terms of analyzing the Pentagon Papers;
8 for the work in terms of coordinating the efforts of
9 Government agencies in terms of research into the Pentagon
10 Papers.

11 Q Could you tell the Grand Jury, please, the
12 circumstances leading up to whatever recommendation you
13 actually did make of Mr. Hunt?

14 A All right. In early July, the first -- the last
15 couple of days of June, or the first few days of July of
16 1971, I was asked by Mr. Haldeman to give him a series of --
17 to give him some recommendations of a man who could be
18 brought onto the White House Staff -- or, a man perhaps who
19 was already on the White House Staff -- but to recommend
20 to him someone who could assume the full-time responsibility
21 for coordinating the research into the Pentagon Papers and
22 the liaison between the White House and Congressional
23 committees that might be conducting investigations.

24 I did make a series of recommendations to Mr.
25 Haldeman -- in fact, five or six names -- in a memorandum
26 of July 2nd. I recommended five or six individuals, including
27 one of those recommendations -- one of those recommended was
28 Mr. Hunt.

3. 1 Q What happened next in connection with Mr. Hunt's
2 recommendation and his subsequent employment?

3 A Well, there was a decision initially by Mr.
4 Haldeman and Mr. Ehrlichman that a present member of the
5 White House Staff, who had been one of those who I had
6 recommended, assume responsibility.

7 I talked with that member of the Staff on July
8 6th, and he declined. He said that he didn't feel that he
9 was qualified for it.

10 I sent a memorandum to Mr. Ehrlichman on July
11 6th in which I said that this member of the Staff did not
12 wish to take the job on; and that for one reason or another,
13 all of those who had been recommended, in my July 2nd memo,
14 were either unacceptable or unavailable, except for Mr.
15 Hunt.

16 And I urged Mr. Ehrlichman, in that memorandum,
17 to interview Mr. Hunt to determine if he approved of his
18 being hired.

19 Q Did you ever get any response, either in writing
20 or orally, from Mr. Ehrlichman?

21 A Yes.

22 Q Would you tell us, please, of that?

23 A Mr. Ehrlichman asked that I bring Mr. Hunt to
24 see him, which I did on the morning of July 7th. And
25 thereafter, Mr. Ehrlichman indicated to me that he thought Mr
26 Hunt would be a good man for the job, and that he should be
27 brought under the -- onto the White House Staff as a
28 consultant.

14A.

5. On July 2, 1971, Colson sent a memorandum to Haldeman with an attachment containing a portion of Alexander Bickel's argument before the Supreme Court.

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5a. Memorandum from Colson to Haldeman, July 2, 1971,	76

July 2, 1971

MEMORANDUM FOR: H. R. HALDEMAN
FROM: CHARLES COLSON
SUBJECT: New York Times

Enclosed is a portion from the transcript of the oral argument in the Supreme Court last Saturday with reference to the POWs. The news reports carried this excerpt as one by the counsel for the Post and Stewart. On reading the transcript, it appears that the answer was given by Mr. Bickel, counsel for the New York Times. I am trying to dig out the news stories.

The thrust of the questions and answers, however, is as reported and is devastating. Bickel was obviously trying to fudge the answer to make the point that the release of the documents would be but one of many things delaying the release of prisoners. After granting that, however, he does say that that is a risk that should be taken.

cc: Pat Buchanan
Van Shumway

EXCERPTED PASSAGE FROM ORAL ARGUMENT OF SUPREME COURT AND DURING ARGUMENT OF ALEXANDER BICKEL, COUNSEL FOR THE NEW YORK TIMES, June 28, 1971.

Justice Stewart -- Mr. Bickel it is understandably and inevitably true that in a case like this, particularly when so many of the facts are under seal, it is necessary to speak in abstract terms, but let me give you a hypothetical case. Let us assume that when the members of the court go back and open up this sealed record we find something there that absolutely convinces us that its disclosure would result in the sentencing to death of a hundred young men whose only offense had been that they were 19 years old and had low draft numbers. What should we do?

A. Mr. Justice, I wish there were a statute that covered it.

Justice Stewart -- Well, there is not. We agree, or you submit, and I am asking in this case what should we do.

A. I am addressing a case of which I am as confident as I can be of anything that Your Honor will not find that when you get back to your chambers. It is a hard case. I think it would make bad separation of powers law. But it is almost impossible to resist the inclination not to let the information be published, of course.

Justice Stewart -- As you know, and I am sure you do know, the concern that this court has term after term with people who have been convicted and sentenced to death, convicted of extremely serious crimes in capital cases, and I am posing you a case where the disclosure of something in these files would result in the deaths of people who are guilty of nothing.

A. You are posing me a case, of course, Mr. Justice, in which that element of my attempted definition which refers to the chain of causation--

Justice Stewart -- I suppose in a great big global picture this is not a national threat. There are at least 25 Americans killed in Vietnam every week these days.

A. No, sir, but I meant it is a case in which the chain of causation between the act of publication and the feared event, the death of these 100 young men, is obvious, direct, immediate.

Justice Stewart -- That is what I am assuming in my hypothetical case.

A. I would only say as to that that it is a case in which in the absence of a statute, I suppose most of us would say --

Justice Stewart -- You would say the Constitution requires that it be published, and that these men die, is that it?

A. No, I am afraid that my inclinations to humanity overcome the somewhat more abstract devotion to the First Amendment in a case of that sort. I would wish that Congress took a look to the seldom used and not in very good shape espionage acts, and cleaned them up some so that we could have statutes that are clearly applicable, within vagueness rules, and what not, so that we do not have to rely on Presidential powers. But the burden of the question is do I assume that the event has to be of cosmic nature.

Justice Stewart -- That is the question.

A. No, sir. The examples given by Chief Justice Hughes himself are not. A troop ship is in a sense that 100 men or the location of a platoon is in a sense that 100 men. I don't assume that. I do honestly think that that hard case would make very bad separation of powers law.

Justice Stewart -- Let me alter the illustration a little bit in the hypothetical case. Suppose the information was sufficient that judges could be satisfied that the disclosure of the link the identity of a person engaged in delicate negotiations having to do with the possible release of prisoners of war, that the disclosure of this would delay the release of those prisoners for a substantial period of time. I am posing that so that it is not immediate. Is that or is that not in your view a matter that should stop the publication and therefore avoid the delay in the release of the prisoners.

A. On that question, which is of course a good deal nearer to what is bruited about, anyway, in the record of this case, I can only say that unless -- which I cannot imagine can be possible -- the link of causation is made direct and immediate, even though the event might be somewhat distant, but unless it can be demonstrated that it is really true if you publish this, that will happen, or there is a high probability, rather than as is typical of those events, there are 17 causes feeding into them. Any one of those other than the publication

is entirely capable of being the single effective cause, and the real argument is, well, you add publication to that, and it makes it a little more difficult. I think Mr. Justice, that is a risk that the First Amendment signifies that this society is willing to take. That is part of the risk of freedom that I would certainly take.

6. On July 3, 1971, Colson enclosed a memorandum to the President setting forth several points the President wanted included in a President statement.

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HIGH PRIORITY

July 3, 1971

MEMORANDUM FOR: RAY PRICE
FROM: CHARLES COLSON

The President this morning gave me the following points which he would like to have drafted into a statement which he may want to use in Kansas City. In any event, if he decides not to use it, it is a thesis that he would like to see developed as a major Administration statement.

The points went as follows:

1. A former Government official or officials in clear violation of the Espionage Act delivered stolen, top secret papers to the press. (The statement about "in clear violation of the Espionage Act" should be double checked -- will have to be modified to the correct legal phraseology.)
2. This Administration sought to enjoin the publication of those documents. There was no reason we should do this -- certainly from a political standpoint in view of the fact that these were records involving prior Administrations.
3. But there were higher issues involved than any political consideration. I took an oath to enforce the law of this land. The law clearly says that no one -- editor or President, for that matter -- can put himself above the law. The law in this instance imposed a very clear obligation upon this Government.
4. The court has now ruled that the newspapers do have the right to print these documents. I will not question that decision (the characterization of what the Court did rule should be made quite clear because they did not hold that under no circumstance could the Government seek and make stick an injunction).
5. The real question, however, is: Should a newspaper in the great tradition of our free press exercise that right in an unrestricted way.

6. The President would then like to cite the exchange with Bickel pointing out that Counsel for the Times believes that even if there were a risk that the publication could contribute to a delay in the return of POWs "that is a risk that the 1st Amendment signifies that this society is willing to take." (We must be very careful to be sure that Bickel's response is fully in context. You will note that he says that it would be unlikely to be the only cause of delay, it might be one of many causes and that under those circumstances the risk should be taken.) He does acknowledge, however, that the principle of the 1st Amendment overrides the risk of delaying the return of POWs. As President, I do not share that view. That may be the standard of one newspaper, it can never be my standard. That can never be the standard of the President of the United States.
7. I am negotiating on many fronts for peace. Many of these negotiations could not succeed unless they were conducted in secret and vital information is protected. I will keep my oath to enforce the law; moreover my primary obligation is the protection of American lives and the return of POWs. If secret negotiations are necessary to this end then I will do everything in my power to protect the security of those negotiations.
8. I can well understand that newspapers must seek stories and scoops both to inform the public and obviously because they are in a very competitive commercial enterprise. They must seek to inform the public and increase their circulation but if I have a choice between the life of one American and a newspaper's understandable desire to obtain information, I will put one man's life above this. No story, even if it would sell a million more newspapers, is worth the life of one American.
9. As far as the record of this Administration is concerned, I have nothing to hide. I deeply believe in the people's right to know but my first obligation is to the future and to keeping the peace for the future.
10. President Eisenhower once told me the story of his relationships with the press during the very trying days of World War II. Newsmen were often given secret invasion plans in advance but no reporter ever broke security. I believe that the American press understands the very deep responsibility which they have and which they have exercised many times before.

-3-

11. The President then added a couple of additional points which probably belong back in the text somewhere: I understand the obligation of editors to seek the truth, particularly when it might appear that the classified information has been protected largely for political purposes.

He then also added: The newspapers may have a legal right to publish top secret documents but the real question is: Should the newspapers exercise this right?

7. On or about July 15, 1971, Ehrlichman told Krogh to begin this "special" national security project. While Krogh was under the overall aegis of Ehrlichman, he did not regularly report to Ehrlichman.

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William M Treadwell

ATTORNEY #118

SUBJECT: 824 STATE STREET, WASHINGTON, D.C. 20005 • TELEPHONE: (202) 692-1118 • FAX: (202) 692-1118

May 4, 1973

Office of the United States Attorney
for the District of Columbia
U. S. District Courthouse
Washington, D. C.

Attention: Earl J. Silbert
Assistant U.S. Attorney

Dear Mr. Silbert:

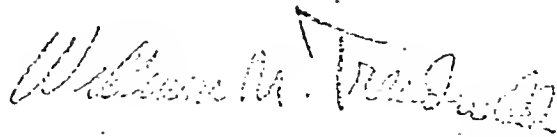
Herewith presented to you at the request of my client, Egil Krogh, Jr., is an Affidavit of Disclosure of Evidentiary Information.

It is presented to you with the specific request that it be immediately submitted to the Honorable W. Matthew Bryner, Judge of the United States District Court for the Southern District of California.

The affidavit has been prepared and executed in conformity with statutory provisions, and was sworn to in open court by Mr. Krogh on this date, Theodore R. Newman, Jr., Judge of the Superior Court of the District of Columbia presiding. Thereafter the jurat was properly certified by the Clerk of the Court, with seal affixed.

An unexecuted xerox copy of this affidavit is herewith also presented to you, for your own files.

Yours truly,



WET:nb
Enclosures

WASHINGTON
DISTRICT OF COLUMBIA

SS.: AFFIDAVIT OF DISCLOSURE
OF EVIDENTIARY INFORMATION

This affidavit was prepared personally by the affiant and is presented to the Department of Justice for submission to the United States District Court, Southern District of California, the Honorable W. Matthew Byrne, Jr. presiding.

The form and execution of this affidavit is in conformity with statutory law and judicial precedent, and its submission is not a waiver or forfeiture of any state or federal constitutional, statutory, or common-law right of the affiant.



William H. Treadwell
Attorney at Law

Suite 303
910 Sixteenth Street, N.W.
Washington, D. C. 20006
Telephone: 202-659-1978, 9

WASHINGTON :
DISTRICT OF COLUMBIA : SS.:

Egil Krogh, Jr., of full age, being first duly sworn according to law upon his oath, deposes and says:

1. that he resides at 6949 Greenvale Street, N.W., Washington, District of Columbia;
2. that he is a citizen of the United States of America;
3. that he is currently an officer of the executive branch of the federal government, serving as Under-Secretary of the Department of Transportation;
4. that on or about July 15, 1971, affiant was given oral instructions by Mr. John D. Ehrlichman, Assistant to the President of the United States for Domestic Affairs, to begin a special National Security project to co-ordinate a government effort to determine the causes, sources, and ramifications of the unauthorized disclosure of classified documents known as the Pentagon Papers;
5. that Mr. David Young of the National Security Council Staff was assigned to this special project with him.

6. that to his information and belief one reason for undertaking an independent investigation centralized among White House staff was that a close personal relationship existed between the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and Mr. Louis Marx, father-in-law of Dr. Daniel Ellsberg, admitted public source of the Pentagon Papers;
7. that to affiant's information and belief the establishment of an independent investigatory unit reporting to the White House staff was expressly agreed to by Director Hoover and this agreement manifested in a memorandum from Director Hoover;
8. that to his information and belief Central Intelligence Agency investigative support was unobtainable for this special National Security project due to the lack of CIA jurisdiction within the territorial United States;
9. that in July 1971 the affiant recommended to Mr. John D. Ehrlichman that Mr. G. Gordon Liddy be employed by the special unit as an investigator and staff assistant, and Mr. Ehrlichman subsequently authorized the employment of Mr. Liddy;
10. that Mr. E. Howard Hunt was recommended to affiant for assistance on the Pentagon Papers investigation, such recommendation was made to affiant over the telephone by Mr. Charles C. Colson, Special Counsel to the President;
11. that Mr. Colson's recommendation of Mr. Hunt was based on Mr. Hunt's investigative experience as an agent for the Central Intelligence Agency;
12. that Mr. Hunt was at that time employed as a part time White House consultant by Mr. Colson on matters not known to me;
13. that information obtained by the special unit made it imperative to ascertain whether the unauthorized disclosure of the Pentagon Papers was (a) an individual act, (b) the act of a small group, or (c) the result of a wider conspiracy to engage in espionage;
14. that during the early stages of the investigation, affiant received information suggesting that Dr. Ellsberg did not act alone;
15. that the affiant was informed by the Federal Bureau of Investigation that the so-called Pentagon Papers were in the possession of the Soviet Embassy, Washington, D. C., prior to their publication by the New York Times newspaper suggesting an effort to aid and abet an enemy of the United States through an ally;

7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,
UNITED STATES v. KROGH

- ✓ 16. that shortly thereafter additional public disclosure of classified information related to national security took place, to-wit:
- (a) publication of a news story on the Strategic Arms Limitation talks with the Soviet Union, and
 - (b) publication of a news story on August 12, 1971, regarding a Soviet move to avert a war by entering into a pact with India;
- ✓ 17. that following the publication of the abovementioned SALT story, the affiant was personally instructed by President Nixon, in the presence of John D. Ehrlichman, that the continuing "leaks" of vital information were compromising the national security of the United States, and the President instructed the affiant to move ahead with the greatest urgency to determine the source of "leaks";
18. that the affiant was informed by the CIA that a news story had put in jeopardy the life of an intelligence agent, thus emphasizing the need for increased investigative effort on the part of the affiant's special unit;
19. that in addition the affiant was informed repeatedly during the months of July and August of 1971 of the extreme threat perceived to be developing by high government officials, because of the possibility of further unauthorized disclosure as to the capability of the United States government to conduct its foreign affairs and protect its national security;
20. that efforts to discover the sources had not succeeded;
21. that affiant's special unit received information from an interview conducted by the Federal Bureau of Investigation with one Dr. Fielding, former psychiatrist to Daniel Ellsberg, which yielded no information;
22. that additionally a psychological profile of Dr. Ellsberg, prepared by the CIA provided no useful information to the affiant's special unit;
23. that discussions among the special unit were conducted which suggested that information in the possession of Dr. Fielding may hold the key to breaking the impasse;
24. that individuals who may have participated in a conspiracy with Dr. Ellsberg may have been named;
25. that a psychological profile could be put together with information derived from Dr. Fielding;

26. that general authorization to engage in covert activity to obtain a psychological history or ascertain associates of Dr. Ellsberg was thereafter given to the special unit by John D. Ehrlichman;
27. that plans for acquiring the information from the office of Dr. Fielding were developed by Mr. Hunt and Mr. Liddy;
28. that to affiant's information and belief a first trip to California was undertaken by Mr. Hunt and Mr. Liddy to determine means for acquiring the information;
29. that films of the premises of Dr. Fielding's office were brought back by Mr. Hunt and Mr. Liddy following the first trip;
30. that to affiant's understanding and belief certain of these films were left in a camera belonging to the Central Intelligence Agency and transmitted to the Department of Justice by the Central Intelligence Agency;
31. that a second trip was undertaken to acquire the information in early September 1971;
- ✓ 32. that in affiant's supervisory capacity, affiant agreed to the mission with the understanding that Mr. Hunt and Mr. Liddy would obtain the service of certain Cubans to accomplish the mission;
33. that affiant attached a condition to the mission that Mr. Hunt and Mr. Liddy were not to be in the close proximity of Dr. Fielding's office;
34. that recent newspaper reports suggesting that an individual had accepted responsibility for the entry into two offices on the premises where Dr. Fielding has his office was a completely unknown incident to affiant;
- ✓ 35. that to affiant's understanding and belief the funds for implementing the effort to acquire the information were provided to affiant through an unknown intermediary after a request by affiant to Mr. Charles Colson for the funds;
- ✓ 36. that to affiant's knowledge affiant did not inform Mr. Colson as to the reason for the request for funds;
37. that to affiant's understanding and belief the funds totalled \$2,000.00 which were to be used for expenses;

7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,
UNITED STATES v. KROGH

38. that to affiant's understanding and belief, Mr. Hunt stressed to affiant that only expense money would be accepted by those who had been recruited for this effort as this was a contribution to the security of the United States and no profit should be derived;
39. that to affiant's understanding and belief no information was acquired from the second and final trip regarding any associates of Dr. Ellsberg, a psychiatric background of Dr. Ellsberg, or any other material;
40. that to affiant's understanding and belief no information of any kind was transmitted to any government agency for use in the prosecution of Dr. Daniel Ellsberg derived from either trip to California as none was obtained;
41. that upon return from the second trip to California, failure of the objective to acquire information was reported by Mr. Hunt and Mr. Liddy to affiant and photos of destructive activity within an office were displayed to explain the events which had reportedly transpired;
42. that photographs of Dr. Fielding's apartment were presented by Mr. Hunt and Mr. Liddy with a recommendation that another attempt be made to acquire the desired information;
43. that no other effort was undertaken to acquire information on Dr. Ellsberg's associates or psychiatric history;
44. that affiant reported the results of the second trip to California to Mr. John D. Ehrlichman with the recommendation that any additional covert activity be disapproved;
45. that Mr. Ehrlichman disapproved any further covert activity;
- ✓ 46. that Mr. Ehrlichman advised affiant that the activity on the second trip to California far exceeded the scope of any covert activity which had been approved in general in advance;
47. that affiant was instructed to inform Mr. Liddy and Mr. Hunt that no additional covert activity was to be undertaken;
48. that affiant informed Mr. Hunt and Mr. Liddy that no additional covert activity was to be undertaken;

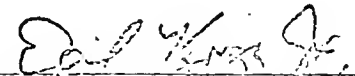
49. that to his understanding and belief, affiant has had no prior knowledge of any subsequent covert activity alleged to have been undertaken by Mr. Hunt and Mr. Liddy;
50. that affiant has testified before the Senate Commerce Committee during his confirmation hearings regarding the organization and activities of the so-called "plumbers;"
51. that in reviewing the transcript of those hearings, affiant believes he responded accurately and truthfully to all questions posed by the Committee members during the hearings;
52. that during his confirmation hearing affiant denied any knowledge of bugging or electronic surveillance activities by the "plumbers;"
53. that recent newspaper accounts allege that such activities may have taken place, and that affiant reiterates that he had no knowledge of such alleged electronic surveillance activities.

7a. EGIL KROGH AFFIDAVIT, MAY 4, 1973,
UNITED STATES v. KROGH

WASHINGTON :
DISTRICT OF COLUMBIA : SS.:

Egil Krogh, Jr., being duly sworn according to law upon his oath, says that he is the affiant of the foregoing; that he has read same and knows contents thereof; that the matters stated therein are true to his knowledge, except such matters as are stated to be upon information and belief and as to those matters he believes them to be true.

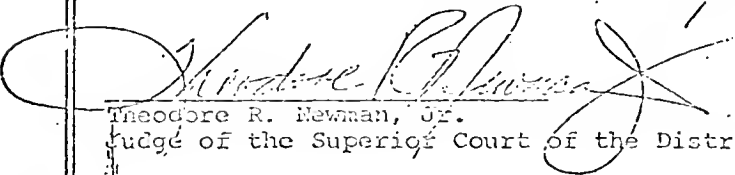
Further, I declare under the penalty of perjury that the foregoing is true and correct.



Egil Krogh, Jr.

SUBSCRIBED AND SWORN TO

before me this 4th day of May, 1973

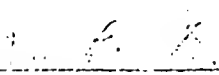


Theodore R. Newman, Jr.
Judge of the Superior Court of the District of Columbia.

Joseph M. Durton, Clerk of the Superior Court of the District of Columbia, the same being a court of record of said District, and having by law a seal, does hereby certify that the Honorable Theodore R. Newman, Jr., whose name is attached to the foregoing affidavit, was at the time of the taking of said affidavit, a member of said Superior Court, which court then and there existed.

And I do further certify that I am well acquainted with his handwriting and verily believe that the signature to the foregoing affidavit is his genuine signature.

In witness whereof, I have hereunto set my hand and affixed the seal of said Superior Court of the District of Columbia this 4th day of May, 1973.



Joseph M. Durton
Clerk of the Court

2-2 1 year was the time that the -- we went off the -- closed the
2 gold window, put the ninety-day freeze on, and were
3 developing an entirely new tax package.

4 From the time we returned from San Clemente,
5 which would have been the -- what? -- third week in July,
6 I guess, until the -- about the 15th of August, somewhere
7 alone in there, I was -- I was almost totally bottled up
8 with that project.

9 Q Are you telling us, so we can be specifically
10 clear about the matter, that Mr. Krogh never reported to you?

11 A No, no. I certainly wouldn't say that. But
12 what I am saying is: It was sort of subject to my
13 availability.

14 The understanding was that he had pretty much
15 of a free hand; and that it was not necessary for him to
16 report to me on any periodic basis, and only at his
17 discretion.

18 Q Would Mr. Young report to you in connection with
19 the work of the Plumbers Group?

20 A Occasionally, yes. And much more frequently
21 later, than in this time frame that we are talking about now,
22 in connection with other problems.

23 Q Did Krogh ever seek your advice and counsel
24 with respect to any proposed projects by this so-called
25 special unit or Plumbers Group?

26 A He asked me -- yes, he did.

27 Q In what connection?

28 A In connection with the problems that they were

2-3 1 having, in cooperation from the F.B.I.

2 Q Did Mr. Young ever seek your advice and counsel
3 with respect to any projects of the special unit or
4 Plumbers Group?

5 A Yes, he did.

6 Q In what connection?

7 A In a connection which I am really not at liberty
8 to discuss, but which has no -- no connection with this matter

9 Q Did Mr. Krogh ever seek your approval in
10 connection with any contemplated courses of action that
11 were to be undertaken by the members of the Plumbers Group
12 or special unit?

13 A Yes. In the former connection, in the matter
14 of the F.B.I. He -- and I think he -- he and David Young
15 probably jointly came to the conclusion that it was going
16 to be necessary for them to do some first party investigation
17 so to speak.

18 And since this was a departure from the
19 original -- the original concept, we discussed it.

20 Q What was the first party investigation --

21 A Well, specifically, sending Hunt and Liddy
22 out here to do some investigation for Krogh and Young, first
23 party.

24 Q When was that discussion entered into, sir?

25 A I can't recall specifically, but it would have
26 been sometime, I would guess -- oh, the late part of July
27 or the early part of August, some place in there.

28 Q Did Mr. Krogh discuss this with you privately,

8. On July 16, 1971, Colson sent a memorandum to Ehrlichman indicating that according to a report from Frank Stanton the FBI made an extensive investigation of the Rand Corporation centering on an alleged leak of documents by Ellsberg and the FBI had a "solid case" but the FBI elected not to act.

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July 16, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN
FROM: CHARLES COLSON
SUBJECT: Rand Corp/FBI/Ellsberg

Frank Stanton, who was on the board of the Rand Corporation, told me yesterday that at a recent executive committee meeting it was disclosed that the FBI had made an extensive investigation at Rand in April of 1970. The investigation centered about an alleged leak of documents by Ellsberg. I am sure this is the incident you told me about over the phone.

According to the report given to the Rand executive committee, the FBI had a solid case but did nothing with it. Stanton suggested that it should be a matter of great concern to us especially if there is any truth to Rand's assertion that there was a solid case and the FBI elected not to act.

In view of the fact that Rand obviously used this as a way of protecting themselves and shifting responsibility back on us, I would think that the file should be very carefully examined and we should be certain of precisely what happened internally that caused the case to be turned off.

9. The FBI made two unsuccessful attempts to interview

Dr. Lewis Fielding on July 20 and 26, 1971.

Page

9a. Dr. Lewis Fielding testimony, Grand Jury
People v. Ehrlichman, June 8, 1973, 98, 100 100

1 Q And without going into the content of what was
2 in the envelope, do you recall about how many sheets of paper,
3 different documents, might have been within the envelope?
4 Numberwise?

5 A Maybe two -- call them documents. And each one
6 consisting of about -- well, one consisting of about 25 pages;
7 the other of about 35 or 40 pages.

8 Q So it was a rather voluminous file, in the sense
9 that it -- it is noticeable, and by thickness (indicating)?

10 A Yes, from my standards, voluminous.


11 Q If one were to copy it, would one have to take
12 pictures of the front and the back? Or just one side?

13 A I wish I had -- I wish -- you know --

14 Q Well, if you can recall. As best you can recall.

15 A I can't recall. I really can't recall.

16 Q That's all right. It's just that we are trying to
17 establish the amount of copying that might have to be done
18 on it.

19  Now, prior to that incident, and in 1971, were you
20 ever contacted by individuals who identified themselves as
21 working for the Federal Bureau of Investigation, and inquiring
22 about Dr. Daniel Ellsberg?

23 A Yes, sir, I was.

24 Q And about when was that, sir?

25 A Exactly on July the 20th, 1971.

26 Q And how do you fix -- how do you fix that date?

27 A I made a note in my book.

28 Q Very good.

1 A Then I referred them to my attorney, who, after
2 we had talked together, decided that I should not talk with
3 them about Daniel Ellsberg.

4 Q All right. And were you ever contacted by the
5 FBI after those conversations?

6 A No. That was on the 26th, I think, that I had
7 the last contact with them.

8 Q And that was July 26th, 1971?

9 A Yes.

10 Q And by telephone with the representative of the
11 Federal Bureau of Investigation?

12 A Yes, sir.

13 Q Did you at any time disclose to them any of the
14 confidential matters that had been discussed between you and
15 Dr. Ellsberg during your relationship as physician and
16 patient?

17 A No, sir.

18 Q Now, did you communicate to Dr. Ellsberg at any-
19 time that you had been contacted by the FBI in July of 1971?

20 A Yes, sir. Yes. On the occasion of Dr. Ellsberg's
21 trial, he visited me a few subsequent times, professionally,
22 at my office. And at that time, my -- here's how it -- the
23 reason.

24 My attorney told me that I had to, for safety's
25 sake, assume that my office might be bugged. And I had
26 communicated to Mr. Ellsberg that I had been visited by the
27 FBI.

28 Q And in relationship to the September break-in of

10. On July 21, 1971, David Young attended a meeting at CIA headquarters, Langley, Virginia, discussing the CIA's involvement with the Pentagon Papers.

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10a. Memorandum of conversation, July 21, 1971.....	104

FUR (2) With regard to the Pentagon Papers, CIA did not participate in the preparation of the 47-volume work itself. They were, however, asked by Secretary of Defense McNamara to supply documents and cooperate with the Task Force. There was a CIA liaison whose name was Dixon Davis. He will have to be interviewed.

FUR (3) The CIA was not then conducting and had not conducted an examination or study on Ellsberg's personality. It was done by DISCO, and they suggested that we go to Justice to get the read out on that.

(4) The CIA fortunately was not very cooperative with the Task Force. When they are asked for specific documents, generally they would look to see if they had already sent them to Defense, then suggest that Defense go to the person who had received it. They did not allow anyone from the Task Force to come out to the Agency and they consistently turned off all fishing expeditions.

(5) The damage assessment (attached) explains the cast of characters who was in charge, and the CIA's evaluation from a parochial point of view. In Carver's opinion the writing must have been completed in the fall of 1968.

(6) The most suspicious fact to Carver was that the whole package was forwarded (13 volumes or 47?) on January 15 which was a Wednesday before the inauguration took place on Monday which left only two working days in the old Administration.

(7) The CIA was never given a set. The first they saw of the complete set was June 21, 1971. The first they got a copy was on July 1, 1971.

(8) The CIA was not involved in any way in the Ellsberg case. I asked them if they knew about the former South Vietnamese Ambassador participating in the xeroxing of the material with Ellsberg. They had heard as much but were not involved in investigating him or anyone else. My question to Carver and to Osborne was what did they think was the best way to lean on the former South Vietnamese Ambassador. I explained that

he was now in Africa and Carver immediately got up and gave me a run-down on his personality and background. (Buzhardt had called for same earlier). Carver said it did not surprise him that he was working with Ellsberg; that he had been the South Vietnamese Ambassador to the U.S. 1965-68 and that he had a lot of good American friends. Carver suggested that perhaps the way to get to him to talk might be to do it through someone here who was his friend. I asked him to suggest names. He said to start with Bill Sullivan and Joe Mendenhall. Carver did not know exactly how well they knew him but that they certainly knew him.

(9) Carver gave some serious consideration to the theory that McNamara really only wanted the documents collected; that it was not his intention to have the narration as was finally done. It was odd that McNamara expected it to take six men only three months and that it wound up taking thirty-six men eighteen months.

(10) Carver said there could also be some plausibility to the theory that Halpern and Gelb set up Ellsberg.

(11) Carver noted that McNamara was only Secretary for about nine months after commissioning the work and that the last two or three months were spent wrapping-up and leaving so that in effect he really only was involved in the study for about six months. He may not even have been that aware of what was being done. Along the same line he noted that Clifford obviously had no chance to review them since there were only two days left. If he had he would have destroyed them because he was enough of a political animal to realize the danger to the Johnson Administration.

(12) Apparently, according to Buzhardt when they went to Clifford to get his set, they were still in the case in the vault in his law firm.

(13) Carver mentioned the names of people who were involved who might be able to shed more light on the whole preparation of the study. In addition to Warnke, Halpern, Gelb, he mentioned Charlie Cook and a Col. Fernim. [Buzhardt probably has a complete list.]

FUR


10a. DAVID YOUNG MEMORANDUM OF CONVERSATION,
JULY 21, 1971

(14) I also brought up with Helms and Osborne the question of the delivery of the documents to the Soviet Union. According to an FBI report, this was done on June 17, 1971. They received 5,000 or 6,000 pages. Osborne said that he was not sure they were working on this but he would check. I asked if the Agency didn't have some way of trying to find out what came out at the other end and if for sure the papers had been received by the Soviet Union.

(15) On the delivery of the papers to the Soviet Union Helms said, "Well, I doubt very much if we will get to see it if it is a true report, but quite honestly we know the fellow who has been giving us these reports and we have our doubts about them."

(16) One other person we should talk to at CIA is Paul Walsh. Another name we should note is Richard Ober, whom Osborne said was the liaison with the Justice Department on the whole Ellsberg case.

FUR

David R. Young 

11. On July 24, 1971, the President held a meeting with Ehrlichman and Krogh, to discuss efforts to identify the source of the SALT leak and the use of a polygraph on State Department personnel suspected of being the source of the leak. The President did not authorize the use of illegal means by the Unit.

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11a. President Nixon Statement, May 22, 1973, 9 Presidential Documents, 695..	110
11b. President Nixon Statement, August 15, 1973, 9 Presidential documents, 993.....	111
11c. John Ehrlichman testimony, Grand Jury, <u>People v. Ehrlichman</u> , June 8, 1973, 545.....	112
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morandum of the options approved. After reconsideration, however, prompted by the opposition of Director Hoover, the agencies were notified 5 days later, on July 28, that the approval had been rescinded. The options initially approved had included resumption of certain intelligence operations which had been suspended in 1966. These in turn had included authorization for surreptitious entry—breaking and entering, in effect—on specified categories of targets in specified situations related to national security.

Because the approval was withdrawn before it had been implemented, the net result was that the plan for expanded intelligence activities never went into effect.

The documents spelling out this 1970 plan are extremely sensitive. They include—and are based upon—assessments of certain foreign intelligence capabilities and procedures, which of course must remain secret. It was this unused plan and related documents that John Dean removed from the White House and placed in a safe deposit box, giving the keys to Judge Sirica. The same plan, still unused, is being headlined today.

Coordination among our intelligence agencies continued to fall short of our national security needs. In July 1970, having earlier discontinued the FBI's liaison with the CIA, Director Hoover ended the FBI's normal liaison with all other agencies except the White House.

To help remedy this, an Intelligence Evaluation Committee was created in December 1970. Its members included representatives of the White House, CIA, FBI, NSA, the Departments of Justice, Treasury, and Defense, and the Secret Service.

The Intelligence Evaluation Committee and its staff were instructed to improve coordination among the intelligence community and to prepare evaluations and estimates of domestic intelligence. I understand that its activities are now under investigation. I did not authorize nor do I have any knowledge of any illegal activity by this Committee. If it went beyond its charter and did engage in any illegal activities, it was totally without my knowledge or authority.

THE SPECIAL INVESTIGATIONS UNIT

On Sunday, June 13, 1971, The New York Times published the first installment of what came to be known as "The Pentagon Papers." Not until a few hours before publication did any responsible Government official know that they had been stolen. Most officials did not know they existed. No senior official of the Government had read them or knew with certainty what they contained.

All the Government knew, at first, was that the papers comprised 47 volumes and some 7,000 pages, which had been taken from the most sensitive files of the Departments of State and Defense and the CIA, covering military and diplomatic moves in a war that was still going on.

Moreover, a majority of the documents published with the first three installments in The Times had not been included in the 47-volume study—raising serious questions about what and how much else might have been taken.

There was every reason to believe this was a security leak of unprecedented proportions.

It created a situation in which the ability of the Government to carry on foreign relations even in the best of circumstances could have been severely compromised. Other governments no longer knew whether they could deal with the United States in confidence. Against the background of the delicate negotiations the United States was then involved in on a number of fronts—with regard to Vietnam, China, the Middle East, nuclear arms limitations, U.S.—Soviet relations, and others—in which the utmost degree of confidentiality was vital, it posed a threat so grave as to require extraordinary actions.

Therefore during the week following the Pentagon Papers publication, I approved the creation of a Special Investigations Unit within the White House—which later came to be known as the "plumbers." This was a small group at the White House whose principal purpose was to stop security leaks and to investigate other sensitive security matters. I looked to John Ehrlichman for the supervision of this group.

Egil Krogh, Mr. Ehrlichman's assistant, was put in charge. David Young was added to this unit, as were E. Howard Hunt and G. Gordon Liddy.

The unit operated under extremely tight security rules. Its existence and functions were known only to a very few persons at the White House. These included Messrs. Haldeman, Ehrlichman, and Dean.

At about the time the unit was created, Daniel Ellsberg was identified as the person who had given the Pentagon Papers to The New York Times. I told Mr. Krogh that as a matter of first priority, the unit should find out all it could about Mr. Ellsberg's associates and his motives. Because of the extreme gravity of the situation, and not then knowing what additional national secrets Mr. Ellsberg might disclose, I did impress upon Mr. Krogh the vital importance to the national security of his assignment. I did not authorize and had no knowledge of any illegal means to be used to achieve this goal.

However, because of the emphasis I put on the crucial importance of protecting the national security, I can understand how highly motivated individuals could have felt justified in engaging in specific activities that I would have disapproved had they been brought to my attention.

Consequently, as President, I must and do assume responsibility for such actions despite the fact that I at no time approved or had knowledge of them.

I also assigned the unit a number of other investigatory matters, dealing in part with compiling an accurate record of events related to the Vietnam war, on which the Government's records were inadequate (many previous

write a complete report on all that he knew of the entire Watergate matter. On March 28, I had Mr. Ehrlichman

ask the Attorney General to find out if he had additional information about Watergate generally or White House involvement. The Attorney General was told that I wanted to hear directly from him, and not through any staff people, if he had any information on White House involvement or if information of that kind should come to him. The Attorney General indicated to Mr. Ehrlichman that he had no such information. When I learned on March 30 that Mr. Dean had been unable to complete his report, I instructed Mr. Ehrlichman to conduct an independent inquiry and bring all the facts to me. On April 14, Mr. Ehrlichman gave me his findings, and I directed that he report them to the Attorney General immediately. On April 15, Attorney General Kleindienst and Assistant Attorney General Petersen told me of new information that had been received by the prosecutors.

By that time the fragmentary information I had been given on March 21 had been supplemented in important ways, particularly by Mr. Ehrlichman's report to me on April 14, by the information Mr. Kleindienst and Mr. Petersen gave me on April 15, and by independent inquiries I had been making on my own. At that point, I realized that I would not be able personally to find out all of the facts and make them public, and I concluded that the matter was best handled by the Justice Department and the grand jury. On April 17, I announced that new inquiries were underway, as a result of what I had learned on March 21 and in my own investigation since that time. I instructed all Government employees to cooperate with the judicial process as it moved ahead on this matter and expressed my personal view that no immunity should be given to any individual who had held a position of major importance in this Administration.

My consistent position from the beginning has been to get out the facts about Watergate, not to cover them up.

On May 22 I said that at no time did I authorize any offer of executive clemency for the Watergate defendants, nor did I know of any such offer. I reaffirm that statement. Indeed, I made my view clear to Mr. Ehrlichman in July 1972, that under no circumstances could executive clemency be considered for those who participated in the Watergate break-in. I maintained that position throughout.

On May 22 I said that "it was not until the time of my own investigation that I learned of the break-in at the office of Mr. Ellsberg's psychiatrist, and I specifically authorized the furnishing of this information to Judge Byrne." After a very careful review, I have determined that this statement of mine is not precisely accurate. It is on March 17 that I first learned of the break-in at the office of Dr. Fielding, and that was 4 days before the beginning of my own investigation on March 21. I was

told then that nothing by way of evidence had been obtained in the break-in. On April 18 I learned that the Justice Department had interrogated or was going to interrogate Mr. Hunt about this break-in. I was gravely concerned that other activities of the Special Investigations Unit might be disclosed, because I knew this could seriously injure the national security. Consequently, I directed Mr. Petersen to stick to the Watergate investigation and stay out of national security matters. On April 25 Attorney General Kleindienst came to me and urged that the fact of the break-in should be disclosed to the court, despite the fact that, since no evidence had been obtained, the law did not clearly require it. I concurred and authorized him to report the break-in to Judge Byrne.

In view of the incident of Dr. Fielding's office, let me emphasize two things.

First, it was and is important that many of the matters worked on by the Special Investigations Unit not be publicly disclosed because disclosure would unquestionably damage the national security. This is why I have exercised executive privilege on some of these matters in connection with the testimony of Mr. Ehrlichman and others. The Senate Committee has learned through its investigation the general facts of some of these security matters and has to date wisely declined to make them public or to contest in these respects my claim of executive privilege.

Second, I at no time authorized the use of illegal means by the Special Investigations Unit, and I was not aware of the break-in of Dr. Fielding's office until March 17, 1973.

Many persons will ask why, when the facts are as I have stated them, I do not make public the tape recordings of my meetings and conversations with members of the White House Staff during this period.

I am aware that such terms as "separation of powers" and "executive privilege" are lawyers' terms, and that those doctrines have been called "abstruse" and "esoteric." Let me state the commonsense of the matter. Every day a President of the United States is required to make difficult decisions on grave issues. It is absolutely essential, if the President is to be able to do his job as the country expects, that he be able to talk openly and candidly with his advisers about issues and individuals and that they be able to talk in the same fashion with him. Indeed, on occasion, they must be able to "blow off steam" about important public figures. This kind of frank discussion is only possible when those who take part in it can feel assured that what they say is in the strictest confidence.

The Presidency is not the only office that requires confidentiality if it is to function effectively. A Member of Congress must be able to talk in confidence with his assistants. Judges must be able to confer in confidence with their law clerks and with each other. Throughout our entire history the need for this kind of confidentiality

1 Q Did the President, when the special unit was
2 created -- or at any time thereafter -- ever suggest to you
3 or to anyone else in your presence that criminal methods
4 were to be employed by the members of this so-called
5 Plumbers Group?

6 A No. Unless the use of the polygraph would be
7 illegal. And I don't know whether it was or not.

8 But other than that, no.

9 Q What responsibility was given to Mr. Krogh,
10 after he was assigned to the so-called Plumbers unit?

11 A Well, he had general responsibility for
12 developing ways of determining who was responsible, and
13 finding them, and causing them either to be discharged or
otherwise brought to account.

14 Q What was Mr. Young's responsibility in connection
15 with the same general area?

16 A Mr. Young was a sort of a co-Chairman of the
17 effort. At the same time, he -- he understood, I believe,
18 and Krogh understood -- and I know the President and I
19 understood -- that Krogh was really the lead man in the
20 operation.

21 Q How frequently did Mr. Krogh report to you on
22 either of the -- either the activities or the proposed
23 activities of the so-called Plumbers Group?

24 A Not too frequently. I can't give you a regular
25 interval of time for reporting. We were, right at that
26 particular time, about to launch the new economic policy.

27 If you'll remember, the 15th of August of that
28

Text of Krogh's Letter of Resignation

5/10/78

WASHINGTON, May 9—
Following is the text of a letter of resignation submitted this morning to President Nixon by Earl Krogh Jr., Under Secretary of Transportation and former White House aide who has become implicated in the 1971 Waterbury of the office of Dr. Daniel Ellsberg's psychiatrist.

As I have confirmed in an affidavit filed with the U.S. District Court in Los Angeles, I agreed to a certain mission by employees of the special investigating unit which operated under my direction from the White House in 1971. As the sworn statement makes clear, agreement to this mission was my responsibility, a step taken in excess of instructions, and without the knowledge or permission of any superior.

Under the circumstances which prevailed in the summer of 1971, and based on the best information available to me at the time, I believed that my decision was dictated inescapably by the vital, national security interests of the United States.

I now see that this judgment may well have been in error, though prompted by what was then my highest

sense of right. Its consequences, to my eternal regret, have proved injurious both to a number of innocent persons and to that reverence for law on which our society is founded.

My overriding desire now is to accept full responsibility for my acts and decision and to assist in bringing all the facts and circumstances into the open so that a fair judgment of this activity can be rendered.

With public confidence in our Government already shaken by the Watergate affair, and with the complete affirmation of your personal integrity so imperative at this time, I cannot remain in the Administration while my role in the special investigating unit is submitted to the legal scrutiny it must now properly receive.

It is right that the men and women of the Department of Transportation have an Under Secretary who enjoys full public trust and can devote full time to his job. It is for these reasons that I submit my resignation as Under Secretary of Transportation.

The opportunity I have had to participate in your Administration during the past four

years has been the greatest experience of my life. In particular, it was rewarding for me as a member of your staff to have a hand in the establishment of your global program to combat narcotics and drug abuse and to work closely with the people of the District of Columbia during this period of great progress for the City.

My service at the Department of Transportation, though brief, has also brought priceless lessons and friendships with many superb public servants whom you can be proud to have on your team.

I leave the Government with great reluctance and sadness at the conclusion of a chapter that has meant so much, but also with the sincere hope that my actions in the coming days will contribute to the inexorable process of healing in which our country is now caught up.

Truth alone can bring the healing and make men free, and as best I can I am making truth my guide. I am grateful beyond words for the privilege of serving with you, and would welcome any occasion the future might bring for me to assist you personally or to re-enter the service of the United States.

guilty?

DEFENDANT KROGH: I plead guilty, Your Honor.

THE COURT: You tell me, in your own words,
Mr. Krogh, what your involvement in this was.

DEFENDANT KROGH: Yes, sir.

As Director of the Special Investigations Unit,
known as the Plumbers, I approved an operation which consisted
of an entry without authority into the office premises of
Dr. Lewis Fielding in order to acquire information regarding
Dr. Ellsberg.

THE COURT: You were at that time familiar with the
requirements of the Fourth Amendment?

DEFENDANT KROGH: Yes, sir.

THE COURT: Do I take it from what you say that you
are satisfied for the Court to determine on the basis of what
you have said to me and what is set forth here in this informa-
tion that you acknowledge that you proceeded in a reckless
disregard of constitutional prohibitions and guarantees of
Dr. Fielding?

DEFENDANT KROGH: Yes, sir, I do.

THE COURT: Has anybody made any threats, representa-
tions or promises to you of any kind to get you to plead
guilty?

DEFENDANT KROGH: There have been no threats made to me
at all, Your Honor.

12. On July 26, 1971, David Young attended a meeting at the State Department to discuss the specifics related to the preparation of the Pentagon Papers.

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THE WHITE HOUSE

WASHINGTON

July 26, 1971

MEMORANDUM FOR THE RECORD

PREPARED BY: David R. Young, 4:30 P. M.

SUBJECT: Meeting at the State Department Thursday, July 22, 1971;
4:30 - 5:30 P. M.

PRESENT: Sam Gammon, Assistant to William Macomber
Mr. Gentile, Deputy Assistant Secretary in Charge of
Security
A Legal Assistant to Charles Brower

I explained that I had come over to learn what the State Department had been doing in the wake of the Ellsberg Pentagon matter. I made it clear that I was not interested in the general study which was being conducted by the Rehnquist Committee but in the specifics related to the preparation of the Pentagon Papers.

Gammon explained that the State Department had reviewed the 47 volumes on three separate occasions since the whole case had broken. Their task was to determine what was harmful and damaging from their point of view to the national security. The first time was in response to a request from Mardian. This is what was used in the case finally presented in the Supreme Court. The second time was in response to a request from General Haig from San Clemente. The third time was in response to a request from Secretary Laird in connection with the overall Defense Department study.

In response to my questioning, the following answers were given:

(1) About eight of the thirty-two people named in a list of participants in the Task Force were either directly or indirectly connected with the State Department.

(2) None of the individuals were familiar with what exactly these people had done in the circumstances under which the request was made or the conditions under which they participated (apparently most of the eight persons involved are no longer in Washington).

FUR:

(3) It was suggested that a good person who might shed light on the preparation of the study was Bill Sullivan.

(4) The State Department had two sets of the 47 volumes. They were, however, not sent to the State Department per se, but to two individuals -- namely Katzenbach and William Bundy. The materials were put in the State Department vault along with the other materials which had been stored there of these individuals.

(5) Katzenbach's set was apparently still in the crate in the State Department when all copies were seized by the Defense Department.

(6) It is not clear where Bundy's set was. Though, I have since learned from ISD that Charlie Cook was aware of Bundy's set and where it was located.

(7) Both Katzenbach and Bill Bundy have clearance as consultants so they could go back to the State Department and gain access to the materials.

The State Department is conducting an in-house review of its classification policies and procedures. This is in addition to their participation in the Rehnquist Committee (William Blair from the State Department is on both the Rehnquist Committee and State Department Committee). I am still awaiting an answer from the State Department on when the two sets of 47 volumes each were delivered to the State Department, who delivered them, who received them and where are they now.

5:15 P.M., July 26, 1971

I spoke with William Gammon in Mr. Macomber's office and Mr. Brock in the State Archives of the Executive Secretariat at the State Department:

(1) The Katzenbach set was delivered on July 30, 1969. It was addressed to Art Hartman who apparently had been a former staff assistant to Katzenbach. He simply sent it to the State Department General Files "Record Services Division" to be put with the rest of Katzenbach's files. The

*Follow-up Required

47-volume set came from the Department of Defense, but there is not yet any indication who at Defense sent it. When the Pentagon Papers case broke, the set was brought up to the State Archives of the Executive Secretariat and it is there now.

(2) There is no record of the time that the William Bundy set was received. He resigned on April 30, 1969 and it is possible that if it came before that time he could have signed for it and there would be no record. Again we have no record from whom it came from and we do not even have a receipt to show that it came from Defense. However, the set was again sent to the General State Department Files "Record Services Division." When the whole Pentagon Papers case broke, the Bundy set was picked up from Record Services Division and is now in the Vietnam Section of the East Asian Affairs Department.

(3) Both of the above sets have a memorandum for the record from Gelb attached setting forth the distribution of the set, which was as follows:

- a. LBJ Library
- b. JFK Library
- c. Clark Clifford
- d. Paul Nitze
- e. Robert McNamara
- f. Paul Warnke
- g. William Bundy
- h. Nicholas Katzenbach
- i. Henry Kissinger
- j. OSD/ISA/Gelb
- k. DOD Archives

FUR The crucial question here seems to be why a cover memorandum supposedly transmitting the 47 volumes was dated January 14, 1969, when in fact the 47 volumes (at least Katzenbach's copy) was not delivered until July 30, 1969.

*Follow-up Required

13. On July 26, 1971, Colson sent a memorandum to Ehrlichman recommending that a study be prepared of Top Secret leaks that appeared in the New York Times and suggesting that Krogh and Young could do this.

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13a. Memorandum from Colson to Ehrlichman, July 26, 1971.. 120

July 26, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN
FROM: CHARLES COLSON

Someone should have a study prepared of the number of Top Secret leaks that have appeared in the New York Times over the last few months. Obviously there is an open pipeline.

Is this something we should ask Krogh to do? I would think that Dave Young could research it.

The one which John Scali told me about yesterday, while serious is but one of a series over recent weeks, many of which have come through Tad Slucz.

11. On July 28, 1971, Young prepared a memorandum for the record summarizing a meeting, he attended concerning overall White House direction of the matters surrounding the Ellsberg inquiry.

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THE WHITE HOUSE

WASHINGTON

July 28, 1971

MEMORANDUM FOR THE RECORD

PREPARED BY: DAVID R. YOUNG

SUBJECT: Meeting on 7/28/71 at 9:30 - 10:15 a.m.

PRESENT: Attorney General Mitchell
Richard Kleindienst
John D. Ehrlichman
Robert Mardian
Egil Krogh, Jr.
David R. Young

The following is an outline of the main points discussed and decisions made:

(1) Mr. Ehrlichman set forth the President's concern that there be overall White House direction of the matters surrounding the Ellsberg inquiry.

(2) Mr. Ehrlichman added that the organization chart which had been drawn up in Mardian's shop indicating that the Internal Security Division of DOJ had overall control, was not appropriate.

(3) The Attorney General agreed that the White House should have overall direction. However, he did want to make it clear that he was giving his consent on the basis that John Ehrlichman would have overall direction and that a certain individual who he considered to have poor political judgment not be involved.

(4) Mardian agreed to overall White House direction and suggested that one of our men be detailed to work with his staff.

(5) The Attorney General then asked about the status of the Beecher "SALT leak" article and was brought up-to-date on the polygraphing of one individual from Defense and three from State. It was his surmise that one part of the article came from someone who was in the NSC meeting in the Roosevelt Room.

After the meeting when Mr. Ehrlichman was alone with the Attorney General, he gave him a copy of our revised organization information flow chart.

15. On July 30, 1971, Krogh and Young sent a memorandum to Ehrlichman on the status of the Ellsberg inquiry.

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THE WHITE HOUSE

WASHINGTON

July 30, 1971

MEMORANDUM FOR: JOHN D. EHRLICHMAN
FROM: EGIL KROGH, JR. AND DAVID R. YOUNG
SUBJECT: STATUS OF ELLSBERG ET AL. INQUIRY AS OF JULY 30, 1971

The following is an initial report on what we have found out, what we set up in order to monitor and give direction to the bureaucracy and what actions we have taken.

Operations Underway

- (1) We have had meetings with the Departments of Defense, State, Justice and the CIA, to determine what each is doing in the wake of the Pentagon Papers case. In addition to the general classification and declassification study being carried out by the Rehnquist Committee, each department has set up a committee to review its clearance procedures and each is in the process of preparing damage assessments.
- (2) We have established a liaison relationship with Justice and Defense in order for us to be fed the information which they are developing in their various investigations. We will also be able to initiate the investigation of leads through this channel.
- (3) The specific projects which have been undertaken by the departments are as follows:
 - (A) Defense is conducting:
 - (i) A detailed analysis of the preparation of the Study and the track of its distribution;
 - (ii) An analysis of the published material to determine what parts of the Study have been published and what proportion has come from other classified sources;
 - (iii) An investigation of all individuals still in the military or defense related positions who participated in the Study;
 - (iv) An investigation of the security arrangements at RAND and is inventorying all its documents.

(B) Justice:

(i) The Criminal Prosecution Section of the Internal Security Division is pursuing U.S. v. Ellsberg;

(ii) The FBI is investigating all individuals in connection with U.S. v. Ellsberg;

(iii) The Internal Security Division is doing an analysis and evaluation of all information gathered on Ellsberg and associated individuals.

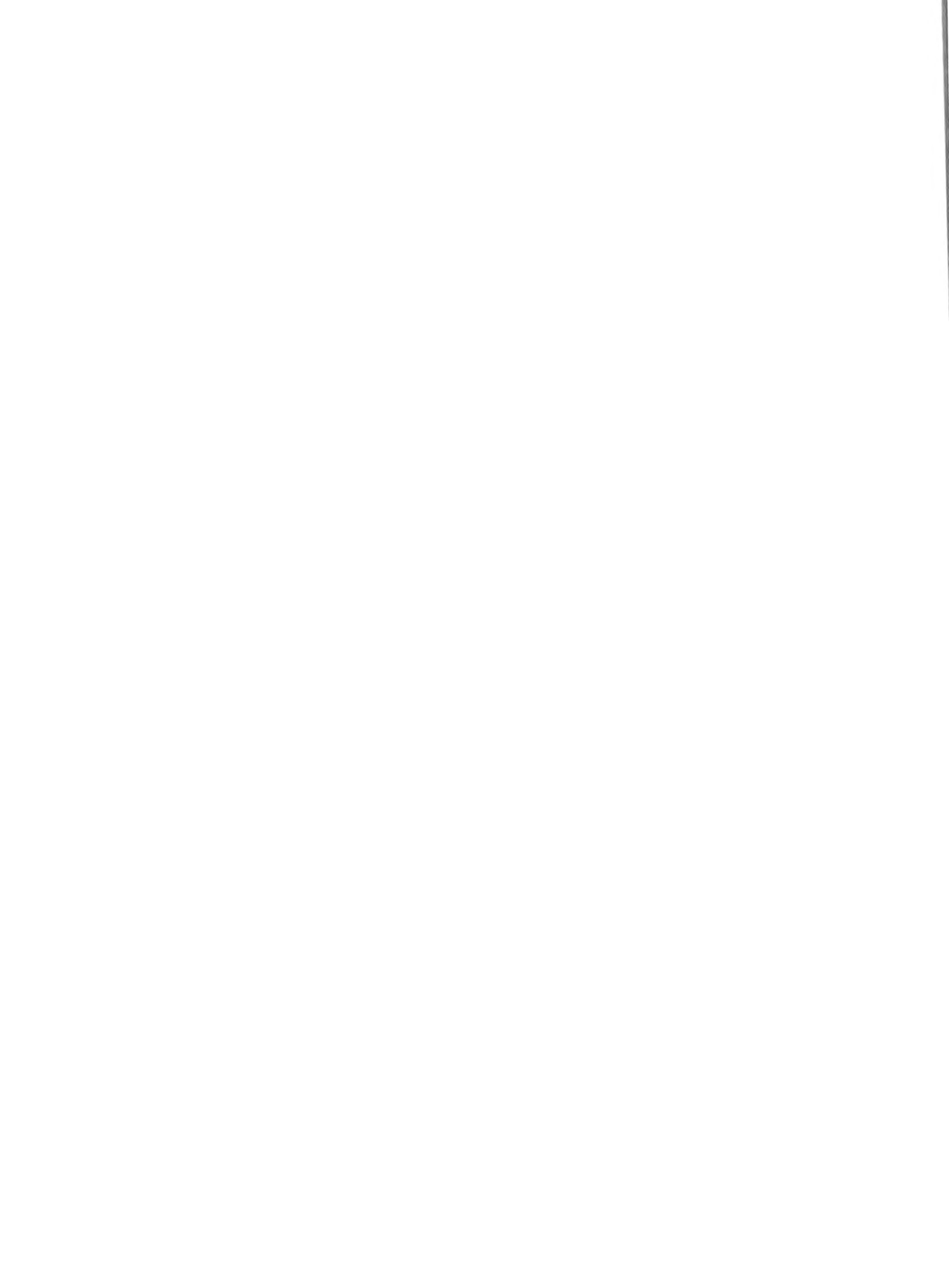
(4) An overall study of the classification and declassification system under NSM 113 is being done by the Rehnquist Interdepartmental Committee. (A preliminary report by them for a new system of classification is attached.)

Actions Taken

(1) The FBI has been asked to expand its investigation to cover all non-Defense related individuals connected with the preparation of the Study and to follow-up any other leads falling out of the investigations in the U.S. v. Ellsberg case itself.

(2) We have instructed the CIA to do a thorough psychological study on Ellsberg. ✓

(3) We have asked Mr. Smyser for an opinion (for Henry A. Kissinger) on the relationship of timing between October South Vietnam election and the political exploitation of the Democrats' involvement in the 1963 coup against Diem. (Initial oral reaction is that it would be disastrous for us to put anything out before the South Vietnam election.)



16. On August 9, 1971, Young attended a meeting at CIA headquarters to discuss the problem of leaks.

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16a. Young Memorandum for the record, August 9, 1971.. 130

THE WHITE HOUSE

WASHINGTON

August 9, 1971

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Howard Osborn and Mr. Paisley at
CIA Headquarters, 3:00 P. M., August 9, 1971

I met with Howard Osborn and a Mr. Paisley to review what it was that we wanted CIA to do in connection with their files on leaks from January, 1969 to the present.

I reviewed the need for us to gain a data base on all leaks at least since January of 1969. It was decided that Mr. Paisley would get this done by next Monday, August 16, 1971, utilizing the running file which the USIB Subcommittee has maintained on leaks.

The specific questions, at least as a starter, which Paisley will attempt to answer are as follows:

- (1) Frequency of leaks associated with particular writers.
- (2) The gravity of leaks.
- (3) The relationship between leaks and, for example, the likelihood of a SALT agreement.
- (4) The frequency with which particular bureaucracies are involved.
- (5) Comparison of the frequency and gravity of leaks in this Administration with the frequency and gravity of leaks in previous Administrations.
- (6) The recurrence of particular motives.

- (1) The use of Gongre as a vehicle to leak.
- (2) Comparison of leaks which occur overseas with those which occur at home.
- (3) Estimate of proportion of leaks which are pro-Administration with those which are anti-Administration.
- (10) Estimate of number of leaks which are deliberately planted by the Administration.
- (11) Estimate of number of leaks which come from one source in comparison with leaks which are pieced together from several sources.
- (12) Comparison of number of leaks which put out essentially correct information with comparison of number of leaks which put out essentially incorrect information.
- (13) Breakdown of subject areas which seem to have the heaviest concentration of leaks.
- (14) Breakdown of level of officials leaking.

The above questions should be reviewed with Paisley within the next two days. It should also be made clear that there must be given definitions in this study.

The New York Times exhibit and The Washington Post exhibit will also be made available to CIA in order to feed it into their data base, and we should also get State Department's leak file and Defense Department's leak file.

David Young

17. On August 13, 1971, Young and Krogh sent a memorandum to Ehrlichman indicating that an attached newspaper article endangered the life of a clandestine CIA operative.

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17a. Memorandum from Egil Krogh and David Young to John Ehrlichman, August 13, 1971,.....	134

ODESSA

August 13, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN

FROM: BUD KROGH AND DAVID R. YOUNG

SUBJECT: The Attached Article in Today's New York Times
and Director Helms' Call of this Morning indicating
that this is a Direct Leak of Information from a
Clandestine Source and it Puts the Source's Life in
Danger

As you know, we conducted extensive interviews at State and Defense in
the Bacher/SALT leak, but with unsatisfactory results.

We understand that CIA feels it could have gotten to the source of the SALT
leak if we had told them to go all out for one month to identify the soft spot.
We feel that now we have an opportunity to give CIA the mission of tracking
down the source of this leak. Our reasons are:

(1) CIA possesses implicit authorization to investigate breaches of its
own internal security of which the attached represents a major incident.

In our judgment, we should authorize CIA to nail down the source of this
leak dealing with the other departments through us.

(2) The FBI has been out of the clandestine business for five years and
we are most reliably informed it would take an unacceptable amount of
time for the Bureau to gear up for such an operation.

If the FBI lacks capability to undertake the mission and as Hoover is most
sensitive about CIA encroachment on the domestic preserve, this decision,
if taken, should not be made known to Hoover or Mardian, or anyone at
State or Defense.

RECOMMENDATION:

That you advise Helms immediately following the NSC meeting that we
would like him to begin this operation to identify the source of this leak
immediately, and that you will so inform the President.

Soviet Moves to Avert War Is Seen to Fuel Fight in India

BY THE STAFF
Special to the New York Times

WASHINGTON, Aug. 12 — Moves have been exchanged between American and Soviet officials today that may have started the Soviet Union's efforts to avert a war between India and Pakistan. The Soviet Union has succeeded in dissuading India from formally recognizing East Pakistan as an independent state. There are still three days left before India is expected to sign a friendship treaty with Pakistan and to recognize East Pakistan.

They said the 20-year treaty of peace, friendship and cooperation signed in New Delhi on Monday by Foreign Minister Andrei A. Gromyko appeared to be the price for an indefinite delay in India's plans to recognize East Pakistan, or Bangla Desh. Mr. Gromyko rushed to the Indian capital during the weekend on two days' notice to sign the treaty.

According to intelligence reports submitted to President Nixon on Monday, the Soviet Government had warned the Indian Government that recognition of Bangla Desh could precipitate a war between India and Pakistan.

Suppression Began March 25

Bangla Desh is the name given to East Pakistan by its separatist Bengalis, who have India's open support. Pakistan has sought to suppress the separatist movement since March 25 through military action, which, according to estimates accepted by the United States Government, has resulted in close to 200,000 deaths and more than seven million refugees.

The controversy over East Pakistan has created deep tensions between Pakistan and India, partly because the millions of refugees are a vast burden on India, and threats of a war

are known to be supported from the Indian side. According to these reports, the message of the planned recognition was delivered in Moscow by Bangla President Dhar, former Indian ambassador to the Soviet Union, apparently

Continued on Page 3, Column 2

going as special envoy for Prime Minister Indira Gandhi. Mr. Dhar flew to Moscow on Aug. 11.

American intelligence and diplomatic reports said that Mr. Gromyko had told Mr. Dhar that India should act with caution, warning that recognition of Bangla Desh could provoke a war.

The next step, American sources reported, was for Mr. Gromyko to present that message to Mrs. Gandhi and Foreign Minister Swaran Singh. The visit was officially announced last Friday and Mr. Gromyko arrived Sunday.

Mr. Gromyko was reported to have told Indian representatives in Moscow that he would use "whatever procedure is necessary" to dissuade Mrs. Gandhi from recognizing Bangla Desh now.

American sources said they understood Moscow was prepared to provide India with additional economic and military aid as a demonstration of support in her dispute with Pakistan.

At the same time, however, the Soviet Union was determined to discourage any drastic steps by India that might cause an Indian-Pakistan war.

Officials here recalled that President Ayub Khan recently warned that war with India was "very near." He had said that if India helped the East Pakistani separatists to seize the state, it would be regarded as an Indian attack on Pakistan and the cause for a war.

In recent weeks, the United States, Britain, the Soviet Union and

Soviet Move to Avert War Seen in Friendship Pact With India

China, have engaged in diplomatic efforts to end the tensions between the Indians and the Pakistanis in India and Pakistan and to avert an outbreak of hostilities. Washington has publicly expressed its concern and the 1950-1951 comments.

China, which has close ties with Pakistan, was reported by diplomats last week to have been quietly advising President Yahya to proceed with caution. American officials said that Mr. Gromyko was successful in persuading India when he agreed to sign the friendship treaty immediately. The pact, it was understood, had been under negotiation for a number of months but Moscow had not prepared to sign so quickly.

Authoritative sources, however, said that India was eager to sign at once in the light of her mounting dispute with Pakistan. The two countries

thought a brief war in 1965, the Indians were believed to regard the Soviet pact as a source of her present security. Soviet mediation helped end the 1965 conflict.

It was not known here whether the Soviet Union had agreed to provide India with new economic aid and military equipment.

State Department officials said that India had not notified the United States in advance of a plan to recognize Bangladesh and that they were not aware of any Soviet effort to pass this information to Washington.

Robert J. McCloskey, the department's spokesman, said today that the Soviet Union and the United States were not in touch over the Indian-Pakistani dispute. He was asked the question at the regular daily news briefing, without reference to

the intelligence reports to the Soviet role in the country. The Indian Government went out of its way yesterday to assure Secretary of State William P. Rogers that the new treaty, or in other words, the ambassador, Lakshmi Prasad Jha, and was reported accepted by Mr. Rogers.

American officials cautioned, however, that the Indian-Pakistani tensions were not likely to diminish in the foreseeable future even if New Delhi continued to withhold recognition from Bangladesh.

Intelligence specialists noted that Mrs. Gandhi was under pressure at home to recognize the rebel state and to give the guerrillas even greater assistance in their efforts to end West Pakistani control of East Pakistan.

This pressure, they said, is

likely to increase with new activities and the problems posed by the refugees.

The United States agrees with India that the East Pakistanis can be solved only through political and military means which President Yahya would grant the referendum. But it is recognized here that such an action would be possible in view of the mounting guerrilla war.

Betrayal of Rebels Charged

NEW DELHI, Aug. 12 (AP wires). An Indian political leader today accused his country and the Soviet Union of stalling Bangladesh.

And Esher Vajpey, leader of the right-wing Jan Sangh party charged at a rally that there was no mention of Bangladesh in a Soviet-India issue yesterday.

"On the contrary, it discusses the interests of the entire people of Pakistan. Mr. Vajpey declared. "This is a slap in the back of Bangladesh and amounts to support for the indivisibility of Pakistan."

18. Ehrlichman testified that he first learned of the Ellsberg break-
in when he returned from a vacation on Cape Cod and that was a few
days after the event.

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Mr. EHRLICHMAN. He was asking me to make sure that that didn't happen.

Mr. DASH. Did you?

Mr. EHRLICHMAN. I believe I did.

Mr. DASH. How?

Mr. EHRLICHMAN. By a phone call.

Mr. DASH. To whom?

Mr. EHRLICHMAN. I can't recall. I am sorry to tell you.

Mr. DASH. If you could, we might know who authorized it.

Mr. EHRLICHMAN. Out of fairness—I could give you a list of people it might have been, but it has been so long ago, I can't remember who it was, but it was whoever he suggested that I call.

Mr. DASH. I don't want to go into a guessing game. But Mr. Dean did say that it was his understanding that it was Mr. Colson who authorized it and that is a name that he had given to you.

Mr. EHRLICHMAN. I can't testify of my own recollection on that and out of fairness to whoever is involved, I certainly would not want to lay before the committee a name here, because I can't vouch for it. I do remember the episode.

Mr. DASH. And you cut it off?

Mr. EHRLICHMAN. I believe that did it. He was just, really, looking for somebody to give a little clout to his feeling that it shouldn't happen.

Mr. DASH. I think you did indicate that you were aware of Tony Ulasewicz' assignments, either for the White House or for some person at the White House?

Mr. EHRLICHMAN. I don't know. My relationship with him, so to speak, ended at the time that I shifted jobs, in early 1970. He was a kind of facility of the counsel's office and he sort of went with the job.

Mr. DASH. Now, you did become aware at this point, I don't want to go into this specifically—of the activities of staff members of the special investigations unit, Mr. Hunt, and Mr. Liddy, with regard to the office of Mr. Ellsberg's psychiatrist?

Mr. EHRLICHMAN. Yes, I did.

Mr. DASH. And when did the so-called break in of the Ellsberg psychiatrist take place?

Mr. EHRLICHMAN. I have heard two dates, but it was around Labor Day of 1971.

Mr. DASH. And I take it that was a fact-gathering project?

Mr. EHRLICHMAN. That was the fact-gathering project that I mentioned before in relation to the theft of the secrets and the turnover to the Russians and the dilemma we had of the Bureau not moving on this.

Mr. DASH. And when do you say that you learned of that break in?

Mr. EHRLICHMAN. Within a day or two after my return from a Labor Day trip to Cape Cod.

Mr. DASH. Now, in the fall of 1971, did you also learn of the so-called Sandwedge plan which had been proposed for political intelligence gathering?

Mr. EHRLICHMAN. I don't know exactly when that was. Is the date important to you? I could look for it.

Mr. DASH. No. I am more interested in what you knew or learned of Mr. Caulfield's recommendations.

19. Following a National Security Council meeting on March 28, 1969, the President directed that the several studies be conducted on alternative solutions to the Vietnam War. One alternative to be studied was a unilateral troop withdrawal. The study directive was issued on April 1, 1969 and on April 6, 1969, the New York Times printed an article by Max Frankel indicating that the United States was considering unilateral withdrawal from Vietnam. At the time the article was published no official discussions regarding this alternative had been taken up with the government of South Vietnam.

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19a Article by Max Frankel, "Nixon Has Begun Program To End War In Vietnam," <u>New York Times</u> , April 6, 1969, p. 1, col. 8.....	140
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NIXON HAS BEGUN PROGRAM TO END WAR IN VIETNAM

Secret Talks and Increased
South Vietnamese Effort
Called Parts of Plan

'VICTORY' DOWNGRADED

Shift in Tactics Would Cut
U.S. Casualties and Allow
Pullout of Some Troops

By MAX FRANKEL
Special to The New York Times

WASHINGTON, April 5—The Nixon Administration has set in motion an essentially secret program of diplomatic and military measures designed to extricate the United States from Vietnam.

Officials here confirm the adoption of a new approach to the war but refuse to discuss its details. They predict, however, that their approach will become evident by the end of 1969, presumably through a decline in the rate of American casualties and the recall of some American troops.

The current and partly known efforts to arrange secret talks in Paris and to turn over more combat assignments to South Vietnamese units in the war zone are said to be part of the Administration's program, but only a part.

Speak of Gradual Change

Informed officials here also talk about a gradual change of military tactics to reduce casualties while providing greater security for some of South Vietnam's major population centers.

As described here, this change would confirm Washington's readiness to settle for something less than military victory, but it would also buy time for negotiations and the evolution of new political processes in South Vietnam before the final American pullout.

It is still not clear here how much progress has been made in recent days to arrange secret talks, both between Washington and Hanoi and between the Saigon Government and the National Liberation Front, or Vietcong. But senior officials contend that every conversation in Paris, many consultations with Moscow and, the course of the battle itself are now an essential part of the maneuvering by both sides.

Objectives Coordinated

They also contend that American military measures are now geared to diplomatic objectives and that "negotiations" in the largest sense are therefore under way.

It is not clear either whether the announced 10 per cent cutback in B-52 bombing raids in South Vietnam had a clear diplomatic purpose as a part of this program. Defense Secretary Melvin R. Laird represented the cutback as an economy meas-

Some officials have expressed specifically that they were assigned to Hanoi, but only if the effort was only a brief measure that would be quickly abandoned at an awkward moment.

Yet despite the secrecy here surrounding some of the specific diplomatic and military positions toward the North Vietnamese, senior officials have been saying enough both in public and private to reveal their basic assumptions and objectives at this stage.

They start with the assumption that Hanoi is seriously interested in a settlement that would yield it something less than a takeover of South Vietnam by force. But in pressing the search for such a settlement, the Administration's planners also wish to prepare a fallback position, that is, a viable alternative in case negotiation fails.

Hanoi's interest in negotiation is thought to flow from a combination of pressures: a degree of military and economic exhaustion; fear of a loss of Soviet support because of other crises, particularly Moscow's conflict with Peking; and realization that American forces

could be defeated or forced to withdraw from South Vietnam.

Mr. Nixon's records in appealing domestic public opinion to the cover, officials here still depend on some measure, though they expect Soviet support in attempting a settlement. They think that Moscow would favor a compromise that vindicates either American intervention in Vietnam or the guerrilla warfare habitually endorsed by Communist China.

If they can get substantial negotiations, Administration officials would want to arrange for a schedule of mutual troop withdrawals by North Vietnam and the United States while the political future of South Vietnam is left to the talks between the Saigon Government and the National Liberation Front.

Indirect diplomatic exchanges appear to have left officials here with the impression that the Front is prepared to deal with the Saigon Government at least long enough to work out some new political processes.

Shift by Saigon Is Seen

And the attitude of the Saigon Government is said to have changed remarkably in

recent weeks as the Nixon Administration privately modifies its determination to move toward disengagement. American officials do not now expect the Saigon regime to reject agreements for the withdrawal of combat forces.

The Saigon leaders also are said now to understand the need to strengthen their political and military position against the day when they must cope alone with their rivals.

Public pressure on Saigon is thought here to be softening, because it helps Hanoi's campaign to undermine the erstwhile South Vietnamese Government. But the private prodigings have continued; President Nixon is said to have remarked that it may be difficult to make peace with Saigon but it will be impossible to make peace without Saigon.

Behind that comment, and behind the entire Nixon approach to the war as described here, lies the Administration's judgement that the United States cannot simply withdraw and let Saigon fall to armed insurgency or invaders.

The Administration is no unalterably committed to the existing Saigon Government, but it has concluded that the invest-

ment of more than 500,000 American troops and of reducing American commitments in a redeployed and a phased way, regardless of the merits of the initial involvement.

It is not known whether the President has tried to define his military terms. But some of his senior officials say that they have concluded that there must be some genuine "self-determination" in South Vietnam and not merely some arrangement that camouflages a Vietcong victory by force of arms.

Therefore, the Administration appears to be seeking a phased withdrawal of American and North Vietnamese troops over a period of time long enough to let new political processes develop in South Vietnam. Simultaneously, it is contemplating the possible need for an even slower pace of American withdrawal if negotiations are unproductive.

Officials refused to discuss the numbers of troops that they might recall even if negotiations fail. Some estimates have ranged from 50,000 to 100,000 over the next 18 months; some estimates have been even greater. Officials say they will not talk about these numbers because they do

not wish to undermine the talks with Hanoi about mutual withdrawal.

But it is clear that the Administration is definitely thinking of unilateral withdrawal of some magnitude as an alternative to a negotiated settlement.

Either way, therefore, American military deployments in South Vietnam will henceforth be declared to hasten the day of South Vietnam's self-sufficiency, to give American public opinion a sense of progress and diminishing cost.

and thus to reinforce the United States and the National Liberation Front in a negotiated settlement.

Officials here say they see no major difficulty with various parts of their plan—that is, in the separate policies it implies for dealing with Hanoi, Moscow, Saigon and American opinion. The main difficulty at the moment, they say, is to bring simultaneously on several fronts and making certain that each step in different directions supports the long-range objective.

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the fundamental approach to major foreign policy issues such as the United States' strategic posture, Strategic Arms Limitation Talks (SALT), Vietnam and many other national security issues. Because of the sensitive nature of these matters, the secrecy of each was of vital importance and the success or failure of each program turned in many instances upon the maintenance of the necessary security. However, notwithstanding the critical need for such security during this period, we were confronted with leaks to the press of information of the greatest importance to the national security. These leaks included discussions of National Security Council deliberations, intelligence information, negotiating positions and specific military operations. In several cases, significant consequences resulted from these premature releases of internal policy deliberations. In addition, the release of such classified information had obvious benefit for potential enemies of this country. Of particular concern to the President were news leaks which occurred from early April until June of 1969, involving Vietnam policy, strategic arms and the Okinawa reversion.

4. With respect to Vietnam, where the President was determining his broad policy for dealing with the war, both as to negotiating positions and military strategy, news leaks regarding such plans appeared frequently in the press. For example, following a meeting of the National Security Council on March 28, 1969, the President directed that studies be conducted on several subjects associated with a settlement of the war in Vietnam, including a study of alternatives for a unilateral

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with the media. The Daily Director was issued on April 1, 1969, and within a week thereafter an article appeared in the New York Times on April 16, 1969, by Tom Brantley revealing that the Government was considering unilateral withdrawal from Vietnam. Similarly, in May of 1969 it was disclosed that the United States could make an initial troop withdrawal from Vietnam, and shortly thereafter articles appeared in the 50th issue of the June 2, 1969, edition of The Evening Star, and by Hugh Smith in the June 3, 1969, New York Times, forecasting this decision and announcing that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu on Midway Island the following Sunday.

Each of the above disclosures was extremely damaging with respect to this Government's relationship and credibility with its allies. Although the initial troop withdrawal increment was small, the decision was extremely important in that it reflected a fundamental change in United States policy. For the South Vietnamese government to hear publicly of our apparent willingness to consider unilateral withdrawals, without first discussing such an approach with them, raised a serious question as to our reliability and credibility as an ally. Similarly, though in a reverse context, these disclosures likewise impaired our ability to carry on private discussions with the North Vietnamese, because of their concern that negotiations could not, in fact, be conducted in absolute secrecy.

Militarily, a decision was made in early March of 1969 to conduct a series of B-52 bombing raids on North Vietnamese sanctuaries just inside the border of Cambodia. Because of the sensitivity associated with Cambodian neutrality and the tacit support for such action by Cambodia's

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Prince Norodom Sihanouk, it was extremely important for diplomatic reasons that these raids remain secret and stringent security precautions were taken to ensure that this military operation was not publicly disclosed. Notwithstanding all such efforts to maintain the security of this operation, an article appeared in the May 9, 1969, edition of the New York Times by William Beecher, attributed to Administration sources, accurately summarizing the conduct of these raids. While there were obvious adverse diplomatic repercussions from this disclosure, its greatest effect was to raise a serious question in the mind of the President as to the ability of the Government to maintain the necessary security required for this and other sensitive military and diplomatic operations, and whether in the future he could make critical foreign policy decisions on the basis of full and frank discussions.

5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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New York Times on May 1, 1969 -- prior to consideration of the report by the National Security Council -- setting forth an accurate description of the options as well as a close estimate of the range of costs involved.

In addition to the above study, the United States Intelligence Board (USIB), composed of representatives of the intelligence community, had been engaged for several months in an analysis of the Soviet Union's testing of missiles, and in early June of 1969 concluded their review and issued a report, which was extremely closely held, setting forth their estimate of the Soviet Union's strategic strength and possible first strike capability. Because the USIB's assessment varied in its degrees of certainty from earlier statements and reports made by other defense experts in support of the need for the Safeguard ABM System, any public disclosure of the USIB report would provide a useful signal to the Soviet Union as to the disagreement within our Government and the efficacy of our intelligence system. It would also prematurely reveal the intelligence basis on which we were developing our position for the impending strategic arms talks. On June 18, 1969, the fact of the interagency disagreement and opposing agency positions were printed in a New York Times article by Peter Grose.

Each of these disclosures was of the most extreme gravity. As presentations of the government's thinking on these key issues, they provided the Soviet Union with extensive insight as to our approach to the SALT negotiations and severely compromised our assessments of the Soviet Union's missile testing and our apparent inability to accurately assess their exact capabilities. Perhaps more important, evidence of leaks of such closely held intelligence assessments raised serious questions

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as to the integrity of the USIA and created severe doubts about our ability to maintain security in deliberations on national security policy.

6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

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by Mr. Hoover that the most effective method was that which had been followed in previous Administrations, namely the conduct of electronic surveillance in accordance with specific procedures. The President was assured by Attorney General Mitchell that such action would be in compliance with law.

My office was required by the President to submit the names of those officials who had had access to the information which had been leaked. Obviously, my office was a natural place for this information to exist; and Dr. Halperin, in his position as Chief of the National Security Council Planning Group, was unquestionably one of several persons who had had access to such information.

8. As a result of this position, which he held until September 20, 1969, and as a consultant to the National Security Council until May 13, 1970, Dr. Halperin received extensive exposure to classified information, much of which remains confidential to this day.

Dr. Halperin was involved in the organization, substantive preparation and processing of National Security Council policy reviews, and his assignments gave him access to fundamental policy issues during the formative and crucial early months of 1969. During the period from January until May 1969, Dr. Halperin regularly participated, in conjunction with the responsible staff area specialists, in sensitive National Security Council studies. In addition, he also frequently attended National Security Council Review Group Meetings, which I chaired, and which considered a variety of subjects, including the United States strategic posture, strategic arms negotiations, Vietnam, the Middle East and United States trade policies, to name only a few. Dr. Halperin also participated in the preparation of papers for the President's use at meetings

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with the National Security Council covering a wide range of issues. While performing the above responsibilities, Dr. Halperin devoted particular attention to several speciality areas, including the United States' strategic posture, the SALT negotiations and the war in Vietnam. To maintain his currency in each of these areas, Dr. Halperin regularly received cables to and from our Embassies, including limited distribution cables on Vietnam and the Paris negotiations, as well as daily intelligence reports and sensitive intelligence publications.

9. Dr. Halperin's name and the names of other individuals were provided to the Federal Bureau of Investigation for their investigation. On May 13, 1969, I received a letter from Director Hoover indicating that on the basis of independent information available to him, it appeared probable that recent leaks had come "from a staff member such as Morton H. Halperin of the National Security Council." Director Hoover further stated specifically that "we should not ignore the possibility that Halperin . . . could be the source of a leak" and that he therefore had alerted the Bureau's most sensitive sources (i. e., electronic surveillance).

10. However, notwithstanding the investigation of Dr. Halperin and others being conducted by the Federal Bureau of Investigation, and additional governmental efforts to curb the unauthorized disclosure of classified information, press leaks involving Southeast Asia, SALT, the Middle East, NATO and other national security matters continued through 1969, 1970 and 1971. Such disclosures necessitated issuing a memorandum on May 23, 1970, to several government agencies regarding the SALT negotiations, in which I stated that:

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Vital national interests are being jeopardized by leaks to the press concerning the strategic arms limitation talks. No one in the Government is authorized to divulge the United States or Soviet positions to the press or to speculate concerning United States intentions with respect to the negotiations.

The President has directed that immediate steps be taken to ensure that standing directives concerning leaks are observed to the full without exception by personnel under our jurisdiction. Prompt and severe disciplinary action is to be taken in the event of violation.

Throughout this period, leaks of information which could have serious adverse effects upon our national security and our relations with our allies continued.

11. From the commencement of the electronic surveillance of Dr. Halperin in May of 1969 until May, 1970, I was provided periodic summaries of the information gained from this surveillance of his conversations which the Federal Bureau of Investigation determined to involve national security. However, in late May of 1970, it was decided that such reports would be directed to the office of Mr. H. R. Haldeman, then an Assistant to the President, and that Mr. Haldeman would advise the President, General Haig, then an assistant on my staff, or myself, of information that required our attention. In addition, an informal liaison was maintained between Mr. Sullivan of the Federal Bureau of Investigation and General Haig of my staff, and if the surveillance of Dr. Halperin developed information of sufficient gravity, Mr. Sullivan would call General Haig and either inform him of that fact or call his attention to the fact that a report containing that information had been sent to Mr. Haldeman. I remember only one such event, but there may have been others.


HENRY A. KISSINGER

Subscribed and sworn to before me this 26th day of November, 1973.


Notary Public

My Commission expires May 31, 1978

10. On June 3, 1969, shortly after the decision had been reached to begin withdrawal of troops from Vietnam, George Sherman reported the decision to The Evening Star and indicated that it would be made public following the President's meeting with South Vietnam's President Nguyen Van Thieu. Hedrick Smith made a similar advance release in the June 4, 1969, New York Times. The decision to begin withdrawing troops had not been formally discussed with the South Vietnamese at the time of the disclosure.

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20a	Article by Hedrick Smith, "Nixon-Thieu Talk May Bring Accord on U.S. Troop Cut", <u>New York Times</u> , June 4, 1969, p. 1, col. 1.....	154
20b	Article by George Sherman, "President Heads Westward, Talk of Troop Cut Grows", <u>The Evening Star</u> , June 3, 1969.....	156
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NIXON-THIEU TALK MAY BRING ACCORD ON U.S. TROOP CUT

Washington Aides Prepare
for a Joint Announcement
at Meeting on Midway

TIMING A MAJOR FACTOR

Officials Feel Statement on
Sunday Would Demonstrate
a Unanimity of Views

By HEDBRICK SMITH
Special to The New York Times

WASHINGTON, June 3 —

United States officials said today that preparations were being made for a joint announcement at Midway by President Nixon and the South Vietnamese President, Nguyen Van Thieu, of the first unilateral reductions in American forces in Vietnam.

Informants said the announcement was considered likely but that final decision to go ahead with the cutback in American forces awaited agreement by the two men at their one-day meeting on the Pacific island Sunday.

Informants said several senior officials of the Nixon Administration believe the Midway meeting would afford a proper, positive occasion for such an announcement. Their reasoning is that a joint announcement would demonstrate solidarity on the troop issue and undercut in advance any speculation that either Washington or Saigon was trying to set a timetable for troop reductions.

Thieu Gives His View

In a news conference at Taipei today, President Thieu indicated the agenda for the Midway talks would include "replacement of U.S. troops by South Vietnamese troops" paving the way for withdrawal of some of the 510,000 Americans in Vietnam.

Military and civilian sources said that the Administration was thinking of pulling out about 50,000 troops this year starting about Sept. 1.

One possibility, Vietnam planners said, was to withdraw part of the United States Ninth Infantry Division, operating in the Mekong Delta south of Saigon, and part of one other combat division.

Differences Are Denied

Some informants cautioned that the announcement of a withdrawal might include a provision that the rate of withdrawal would be affected by the response of enemy forces.

If they launched large attacks against the South Vietnamese forces that replaced American troops, officials said, Saigon and Washington could decide to suspend withdrawals.

Both South Vietnamese and American officials continue to insist there are no basic differences between the two Governments as the Midway talks approach.

But privately, some American officials express that the Administration is being offhand in making the announcement.

inably... of... posts...
made by... of...
William P. Rogers when he
visited... in mid-May.

Mr. Rogers was reported to
have indicated that the United
States considered an interim
coalition Government—as de-
manded by the Vietcong—spec-
ified elections in Vietnam under
international supervision, and
amendments to the South Viet-
namese Constitution as items
open for negotiation in the
Paris talks.

Although no one has dis-
avowed these positions, some
officials have suggested pri-
vately that Mr. Rogers may
have overstepped in the interest
of demonstrating American
flexibility. But they also said
that Washington's acceptance
of these ideas has always been
clearly and contingent upon
Saigon's concurrence.

Some high American officials
are reported to be thinking of a
mixed commission of Commu-
nist and anti-Communist ele-
ments to oversee elections in
South Vietnam, but it is not
clear whether Washington will
put forward this plan at Mid-
way.

The reasoning of some Amer-
icans is that this would strike
a balance between the Vietcong
demand for a provisional coal-
ition to oversee the elections
and Mr. Thieu's rejection of the
coalition idea.

Independent diplomats have
suggested that Mr. Thieu's re-
jection of a coalition, in public
appearances in South Korea
and Taiwan in the last week,
was intended to quiet any pri-
vate discussion of coalition
plans by United States offi-
cials.

Even before he spoke out,
there was no American effort
to persuade Mr. Thieu to ac-
cept a coalition. But since he
has spoken out, American of-
ficials have been at pains to
point this out and generally
avoid discussion of the idea
of coalition.

Officials also insist that
President Nixon's Vietnam
speech of May 14, outlining
Washington's peace program,
was checked out line by line
with President Thieu. The
South Vietnamese leader, offi-
cials say, gave the speech de-
tailed approval after having
suggested several changes in
language.

The speech contained a pro-
posal for international super-
vision of South Vietnamese
elections, which would come
"as soon as possible" after the
commission is named. South
Vietnamese politicians have ob-
jected to both procedures on
the ground that these proposals

infringe on the South Viet-
namese constitution and na-
tional sovereignty. But Wash-
ington is holding firm to both
points and expects to explore
them at Midway.

President Heads Westward, Link of Troop Cut Grows

4/3/69

By GEORGE SHERMAN
Special Staff Writer

President Nixon left today on a trans-continental tour which will close Sunday on Midway Island in a meeting with South Vietnamese President Nguyen Van Thieu.

The President has summoned his full military and civilian entourage to fly with him to the summit — including the chairman of the Joint Chiefs of Staff, Gen. Earl Wheeler and the U.S. negotiator at the Paris peace talks, Henry Cabot Lodge.

The inclusion of Wheeler — traveling with Defense Secretary Melvin Laird — is feeding the belief in top circles here that Nixon and Thieu could announce a timetable for the first replacement of U.S. troops by South Vietnamese Army troops in the war. However, the conference was originally billed primarily as a session to hammer out joint

political strategy in the new phase of negotiations in Paris.

Officials close to Secretary of State William P. Rogers, who also will be on Midway together with White House national security adviser Henry A. Kissinger, refused to rule out the possibility that the first announcement of replacement of perhaps 500 American troops of the 500,000 in Vietnam will come from Midway on Sunday.

During Rogers' recent visit to Saigon, he discussed the plan with Thieu. The South Vietnamese president later said "significant units" — as many as 500 men — of the South Vietnamese Army would be ready by September to begin replacing American troops.

But Premier Tranh Van Huong later told this correspondent in an interview in Saigon that the plan, now in its final stages of preparation, must await a final joint decision by Nixon and Thieu.

Others on hand at Midway will include Ellis South Bunker, U.S. Ambassador to South Vietnam; Laird, Wheeler, Lodge, Kissinger, Gen. Creighton Abrams, U.S. commander in Vietnam, and Adm. John McCain, commander in chief of the Pacific

Before leaving this morning

Nixon presided over a joint meeting of the Cabinet and National Security Council to hear Rogers report on his 18-day trip to Saigon, Bangkok, Teheran and other Asian capitals. Rogers is scheduled to give his second press conference since taking office later this week.

On his way to Midway, the President plans to make four stops and two major speeches.

First Stop at Campus

Nixon's first major stop today was scheduled for General Beaulieu College at Madison, S.D., where the White House said he would talk about "the basic values of America currently under challenge."

Administration sources indicated Nixon would deal broadly with such matters as moral values and the rule of law, skirting direct discussion of campus disorders.

At Air Force Academy commencement exercises tomorrow at Colorado Springs, Colo., the President will discuss "the role of a great nation in the world and the role of a military defense in our society." He is expected to talk about the fears of some Americans that the military establishment, and more particularly a military-industrial alliance, is wielding too much power.

After two days at his new San Clemente, Calif., home, Nixon will head across the Pacific for Sunday's meeting with Tokyo on Midway.

Nixon's family is making the trip with him, with the exception of the hop to Midway. Mrs. Nixon with daughters Tricia and Julie Eisenhower will spend Sunday in Honolulu. They will return to Washington June 19.

Sen. and Mrs. Karl E. Mundt, R-S.D., also were invited to accompany the President on the first leg of today's trip—to South Dakota.

Nixon's meeting yesterday with Japanese Foreign Minister Kitchi Aichi appeared to be the first step toward a return of Okinawa to Japan.

The White House reported after the 10-minute conference that Nixon refused to promise that the Pacific Island, site of a major U.S. Air Force base, would be returned to Japanese control by 1972, as Aichi requested.

But Press Secretary Ronald L. Ziegler said the President felt

the meeting was "constructive" and that he was hopeful of reaching a mutually satisfactory agreement on Okinawa before the scheduled visit to Washington in November of Japanese Prime Minister Eisuke Sato.

Sato is under heavy pressure to regain Okinawa, which the United States has retained since its capture late in World War II.

"In that connection Mr. Aichi stressed that we Japanese people have a unique feeling toward anything nuclear," a Japanese Embassy spokesman said.

U.S. officials have been seeking continued freedom of use of the military base facilities without restrictions -- meaning that the military wants to be free to base nuclear weapons there if this seems necessary.

Under present treaty arrangements, the United States does not put nuclear weapons into its bases in the main islands of Japan, and the Japanese want similar veto power over their presence in Okinawa.

There were reports that Nixon has decided, however, to relinquish this once an agreement has been reached on details of returning Okinawa to Japan.

The President's approach to major foreign policy issues, such as the United States' strategic posture, Strategic Arms Limitation Talks (SALT), Vietnam and many other national security issues. Because of the sensitive nature of these matters, the secrecy of each was of vital importance and the success or failure of each program turned in many instances upon the maintenance of the necessary security. However, notwithstanding the critical need for such secrecy during this period, we were confronted with leaks to the press of information of the greatest importance to the national security. These leaks included discussions of National Security Council deliberations, intelligence information, negotiating positions and specific military operations. In several cases, significant consequences resulted from these premature releases of internal policy deliberations. In addition, the release of such classified information had obvious benefit for potential enemies of this country. Of particular concern to the President were news leaks which occurred from early April until June of 1969, involving Vietnam policy, strategic arms and the Okinawa reversion.

4. With respect to Vietnam, where the President was determining his broad policy for dealing with the war, both as to negotiating positions and military strategy, news leaks regarding such plans appeared frequently in the press. For example, following a meeting of the National Security Council on March 23, 1969, the President directed that studies be conducted on several subjects associated with a settlement of the war in Vietnam, including a study of alternatives for a unilateral

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withdrawal. The study directive was issued on April 1, 1959, and within a week thereafter an article appeared in the New York Times on April 6, 1959, by Mrs. Frankel revealing that the Government was considering unilateral withdrawal from Vietnam. Similarly, in May of 1959 it was decided that the United States could make an initial troop withdrawal from Vietnam, and shortly thereafter an article appeared by George Jefferies in the June 3, 1959, edition of The Evening Star, and by Harold Smith in the June 4, 1959, New York Times, forecasting this decision and announcing that it would be made public following the President's meeting with a South Vietnamese President Nguyen Van Thieu on Midway Island the following Monday.

Each of the above disclosures was extremely damaging with respect to this Government's relationship and credibility with its allies. Although the initial troop withdrawal increase was small, the decision was extremely important in that it reflected a fundamental change in United States policy. For the South Vietnamese government to hear publicly of our apparent willingness to consider unilateral withdrawals, without first discussing such an approach with them, raised a serious question as to our reliability and credibility as an ally. Similarly, though in a reverse context, these disclosures likewise impaired our ability to carry on private discussions with the North Vietnamese, because of their concern that negotiations could not, in fact, be conducted in absolute secrecy.

Militarily, a decision was made in early March of 1959 to conduct a series of B-52 bombing raids on North Vietnamese sanctuaries just inside the border of Cambodia. Because of the sensitivity associated with Cambodian neutrality and the tacit support for such action by Cambodia's

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21. In early March, 1969, a decision was reached to conduct B-52 raids into Cambodia. These raids were conducted secretly to maintain the tacit approval of neutralist Cambodian Prince Norodom Sihanouk.

However, on May 6, 1969, William Beecher accurately reported these raids in the New York Times jeopardizing the relationship with Prince Sihanouk.

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21a Article by William Beecher, "Raids In Cambodia By U.S. Unprotected", <u>New York Times</u> , May 9, 1969, p. 1, col. 8.....	162
21b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 3-4.....	164

GAMBODIA RAIDS GO UNPROTESTED

By WILLIAM BECHER
Special to The New York Times

WASHINGTON, May 8— American B-52 bombers in recent weeks have raided several Vietcong and North Vietnamese supply dumps and base camps in Cambodia for the first time, according to Nixon Administration sources, but Cambodia has not made any protest.

In fact, Cambodian authorities have increasingly been cooperating with American and South Vietnamese military men at the border, often giving them information on Vietcong and North Vietnamese movements into South Vietnam.

Information from knowledgeable sources indicated that three principal factors underlie the air strikes just inside the Cambodian border, west and northwest of Saigon:

↑Rising concern by military

men that most of the rockets and other heavy weapons and ammunition being used by North Vietnamese and Vietcong forces in the southern half of South Vietnam now come by sea to Cambodia and never have to run any sort of bombing gantlet before they enter South Vietnam.

↑A desire by high Washington officials to signal Hanoi that the Nixon Administration, while pressing for peace in Paris, is willing to take some military risks avoided by the previous Administration.

↑Apparent increasing worry on the part of Prince Norodom Sihanouk, Cambodia's Chief of State, that the North Vietnamese and Vietcong now effectively control several of Cambodia's northern provinces and that he lacks sufficient power to disrupt or dislodge them.

No Desire to Extend War

Officials say that there is no Administration interest at this time in extending the ground war into Cambodia, or Laos either.

Some American ground commanders have long urged that battalion-size forces occasionally be allowed to sweep into sanctuaries in Laos and Cambodia to follow-up air strikes. This plea has been rejected by President Nixon as it was by President Johnson.

But sources here say that to assure that accurate information can be obtained to provide "lucrative" targets for the bombers, small groups of men are permitted to slip across both the Cambodian and Laotian borders to locate enemy concentrations of men and material.

The sources report, for instance, that to try to reduce losses in B-52 raids the enemy has dug in and dispersed supply caches in such a way that it is unlikely that all supplies in any one area would be hit by the linear pattern of bombs dropped by a B-52. Each plane, which normally carries about 30 tons of bombs, lays out a pattern that is 1,000 feet wide and 4 miles long.

Coincided With Other Raids

The raids into Cambodia, the sources say, coincided with heavy B-52 raids on the Vietnamese side of the border 50 to 70 miles northwest of Saigon.

Over the last two weeks more than 5,000 tons of bombs have been dropped by B-52's in this area, according to one estimate.

There are reported to be three enemy divisions operating back and forth across the border in this area: the First and Seventh North Vietnamese Divisions and the Ninth Vietcong Division. Another division, the Fifth Vietcong, is now operating south and southeast of Saigon.

The decision to demonstrate to Hanoi that the Nixon Administration is different and "tougher" than the previous Administration was reached in January, well-placed sources say, as part of a strategy for ending the war.

Limited, selective bombing strikes into Cambodia, the sources say, were considered feasible because Prince Sihanouk had dropped hints that he would not oppose such actions and because American military men had long clamored for some action against enemy activities in this sanctuary. Moreover, the strikes seemed to offer relatively little risk of either expanding the war or disrupting the Paris peace talks.

In the past, American and South Vietnamese forces had occasionally fired across the border and even called in fighters or helicopter gunships to counter fire they received from enemy units there. But there had been no bombing of supply stockpiles or base camps in Cambodia, military men say.

'Purposely Ambiguous'

The initiation of such strikes raises the question whether the new Administration, if peace talks drag on without significant progress, would turn to other military measures ruled out by President Johnson. "We're being purposely ambiguous on this," one official said.

Over the last several weeks the military sources say, Cambodian Army officers in border posts have held secret meetings with Americans and South Vietnamese to "coordinate" some actions against enemy forces.

The South Vietnamese have provided them with radios and in some instances the Cambodians have radioed information on enemy units moving into South Vietnam. At other times, the Cambodians have fired colored flares—for example, red to mark an enemy unit and blue to mark their own—so that allied forces would not fire at the wrong unit.

There have been a few recent clashes between Cambodian and Vietcong units in which the Cambodians have captured and disarmed some of the Vietcong before freeing them, the Pentagon sources say.

International Volleyball

As one indication of growing friendliness, one official cited a recent volleyball game near the border involving Cambodian, American and South Vietnamese soldiers.

"This cooperation is only starting to get off the ground," said one officer. "It's too early to tell how important this will turn out to be."

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5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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22. In the May 1, 1969, NY - York Times, William Beecher reported the five strategic options under study for the SALT negotiations with close estimates of the costs for each option. These options were published before they were considered by the National Security Council

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22a Article by William Beecher, "Administration Gets Study of Global Nuclear Strategy", <u>New York Times</u> , May 1, 1969, p. 1, col. 1.....	168
22b Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, pp. 4-6:.....	170

Administration Ends Study Of Global Nuclear Strategy

*National Security Council Will Take Up
Comprehensive Analysis of Options,
Including a Sweeping Modification*

By WILLIAM BEECHER

Special to The New York Times

WASHINGTON, April 30—The first half of a comprehensive review of the nation's security policies, setting forth options for sweeping codifications in United States global strategy, is scheduled to go to the National Security Council tomorrow.

The report, with contributions from the Pentagon, the State Department, the Central Intelligence Agency, the Treasury Department and the Budget Bureau, was described by an Administration official as "the most comprehensive review of national security policy since the end of World War II."

The first half, dealing with strategic policies and nuclear forces, contains five force options ranging in cost from \$5-billion to \$16-billion a year

for the next 10 years. Current strategic forces cost about \$10-billion a year.

At one end of the option range is a policy stressing a large-scale build-up of offensive forces to outdistance the Soviet Union and remain in position to launch a surprise attack at any time. At the other end is a policy of unilaterally holding back on offensive forces and stressing a large build-up of defensive forces to limit damage, substantially if the Russians should attack first.

The second half of the review, due to reach the National Security Council by July 1, will consider a wide choice of political strategies, ranging from

"fortress America" to "world policeman" officials say. It will discuss the sizes of the non-nuclear forces necessary to carry out each after the Vietnam war is over.

Officials pointed out that the two parts of the report were interdependent but that the Nixon Administration wanted to decide first on nuclear strategy before it moved on to the conventional forces necessary to contend with nonnuclear crises. "The nuclear tail wags the nonnuclear dog," one official said.

The review was conceived at the start of the new Administration, before the emergence of a drive in Congress to slash defense expenditures. Officials insist that no really substantial military cuts would be prudent until basic decisions are made on whether some worldwide commitments are to be curtailed.

The purpose of the study, being conducted under chairmanship of David Packard, Deputy Secretary of Defense, is to lay the groundwork for developing meaningful alternative policies for the next 10 years.

The portion of the report dealing with strategic forces had been scheduled for completion by July 1, but the timetable was accelerated to May 1 to enable the Administration to determine policy before the forthcoming arms limitation talks with the Soviet Union. Those talks are expected to get under way this summer.

The existing mix of strategic bombers, missiles and submarines is designed to enable the United States to deter nuclear war by threatening overwhelming retaliation.

The current force of 1,000 Minuteman, 54 Titau-2 and 656 Polaris missiles, with the 549 strategic bombers, is designed to enable enough of the force to survive a first strike and to counter by killing tens of millions of the foe.

Penetrating Any Defense

It also contemplates adding multiple warheads to advanced Minuteman-3 and Poseidon missiles to penetrate any missile defense if the arms-limitation talks fail to freeze Soviet defenses.

Finally, present policy projects a thin missile defense, now called Safeguard, to protect part of the Minuteman force from a first strike, to guard against attack from Communist China when it has long-range missiles and to counter an unauthorized or accidental missile launch.

In addition to the ability to deter nuclear war, the current force has the capability of fighting a limited nuclear war in which each sides aimed only at weapon sites, not cities.

The Other Options

A continuation of essentially the same posture is one of the five options in the new study; the others contain these elements.

CA massive build-up of intercontinental ballistic missiles, including a much longer-range missile carried by a new nuclear-powered submarine. This force would be aimed at re-establishing the situation in which the United States, though quite unlikely to initiate nuclear war, would have a "credible" ability to launch so widespread and accurate a first strike as to virtually disarm the foe.

Completion of the full Safeguard missile-defense system with the addition of defensive coverage of Alaska and Hawaii, a modest increase in ICBM's with multiple warheads and acceleration of plans to build a new long-range bomber with better air-to-ground missiles.

CA unilateral freeze of present strategic offensive forces, no deployment of the so-called multiple independently targetable re-entry vehicles (MIRV's) on Minuteman-3 and Poseidon missiles, and a curtailment of the Safeguard missile defense to protect only two Minuteman sites and a defense of the country at large against Chinese missiles that is thinner than that presently contemplated.

CA No MIRV's or additional ICBM's, but a substantial build-up of defensive missiles around 25 to 52 American cities in an attempt to decrease fatalities markedly should deterrence fail and nuclear war break out.

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5. Several other examples of critically sensitive press disclosures occurred during this period with regard to the development of our position on strategic arms in preparation for SALT negotiations with the Soviet Union.

First, on January 20, 1969, the President directed that an overall study be conducted of the United States' strategic force posture. A fundamental requirement of this study was to determine what programs should be adopted to ensure the credibility of this country's deterrent capability. The study was conducted and included an analysis of five options to support strategies ranging from emphasis on offensive capabilities at one end, to heavy reliance on anti-ballistic missile systems at the other. Cost estimates for each of the alternative force postures were included. Notwithstanding the obvious need for strict security in the preparation and handling of this report, an article by William Beecher appeared in the

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New York Times on May 1, 1969 -- prior to consideration of the report by the National Security Council -- setting forth an accurate description of the options as well as a close estimate of the range of costs involved.

In addition to the above study, the United States Intelligence Board (USIB), composed of representatives of the intelligence community, had been engaged for several months in an analysis of the Soviet Union's testing of missiles, and in early June of 1969 concluded their review and issued a report, which was extremely closely held, setting forth their estimate of the Soviet Union's strategic strength and possible first strike capability. Because the USIB's assessment varied in its degrees of certainty from earlier statements and reports made by other defense experts in support of the need for the Safeguard ABM System, any public disclosure of the USIB report would provide a useful signal to the Soviet Union as to the disagreement within our Government and the efficacy of our intelligence system. It would also prematurely reveal the intelligence basis on which we were developing our position for the impending strategic arms talks. On June 18, 1969, the fact of the interagency disagreement and opposing agency positions were printed in a New York Times article by Peter Grose.

Each of these disclosures was of the most extreme gravity. As presentations of the government's thinking on these key issues, they provided the Soviet Union with extensive insight as to our approach to the SALT negotiations and severely compromised our assessments of the Soviet Union's missile testing and our apparent inability to accurately assess their exact capabilities. Perhaps more important, evidence of leaks of such closely held intelligence assessments raised serious questions

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6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

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U.S. Intelligence Doubts Soviet First-Strike Goal

By PETER GROSE

Special to The New York Times

WASHINGTON, June 17 — The United States intelligence community has reportedly concluded that the Soviet Union is not now striving for the capability to launch a first-strike nuclear attack against this country but is probably seeking more than parity with the United States in missile strength.

At meetings last week of the United States Intelligence Board, which is presided over by the Director of Central Intelligence, Richard Helms, the various civilian and service intelligence agencies are understood to have reached a consensus estimate of Soviet strategic strength for the next two or three years.

Sent to the White House as the official judgment of the intelligence community, the detailed and secret survey seems

bound to become embroiled in the current controversy over the opening of strategic arms talks with the Russians and the proposed deployment of an antiballistic-missile system.

The White House announced today that the National Security Council would meet tomorrow on arms policies. President Nixon is expected to disclose at a televised news conference at 7 o'clock Thursday night when and where the Administration proposes to open the new round of disarmament talks.

Meanwhile, in a related development, 39 Senators—only 12 short of a majority—joined together as co-sponsors of a resolution urging the President to seek agreement with the Soviet Union to halt testing of

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U.S. BOARD ASSAYS SOVIET INTENTION

Continued From Page 1, Col. 2

multiple-warhead missiles. The signers included the Senate Democratic leader, Mike Mansfield of Montana, and the Democratic whip, Edward M. Kennedy of Massachusetts. Senator Edward W. Brooke, Republican of Massachusetts, was the chief author of the resolution, which was endorsed by a total of 27 Democrats and 12 Republicans.

Critics of the Administration are fearful that Defense Secretary Melvin R. Laird and Pentagon strategists have drowned out Secretary of State William P. Rogers and other potential restraining voices — including the Central Intelligence Agency — in pushing for a stern negotiation position and for costly defense programs by, in the critics' view, exaggerating Soviet nuclear capabilities.

Among Congressional opponents of the Safeguard antiballistic missile system, there is particular resentment at what they see as the Pentagon's highly selective, if not actually distorted, use of raw intelligence data to promote the pro-ABM position. The same resentment has been voiced privately by intelligence officials themselves.

It is in this context that the high-level consensus estimate of the entire intelligence community assumes special significance.

The United States Intelligence Board is a high-level coordinating group that meets weekly to correlate all the data available across the Government. Sitting on the board under Mr. Helms's chairmanship are representatives of the CIA; the Pentagon's Defense Intelligence Agency; the intelligence branches of the Army, Navy and Air Force; the State Department; the Atomic Energy Commission and the National Security Agency.

These agencies agreed last week that the Russians appear to be moving rapidly, more so than expected several years ago, to strengthen their nuclear forces as a deterrent and are probably striving for more than equality of missile strength with the United States.

Desire and Possibility

But in the Board's judgment, this drive falls short of an effort to achieve a "first-strike capability" — the capability to destroy enough United States missiles in a first strike to prevent this country from launching an effective retaliatory blow.

The "desire" ultimately to acquire such a capability may be present in some Soviet policy-making circles, the board concluded, but both the capability and the specific intention to achieve it were ruled out for the foreseeable future.

This conclusion was reportedly stated in the formal "national intelligence estimate" without any dissenting footnotes from any of the participating agencies.

Pentagon strategists have repeatedly cited the threat of a Soviet first-strike capability to justify the need for the Safeguard ABM System.

Not a Direct Contradiction

The intelligence community's estimate minimized this threat, though it is not in direct contradiction with the official Pentagon view; Mr. Laird's statements raised the possibility of a Soviet first-strike capability by the mid-1970's, a time beyond the two or three years covered in the intelligence community's estimate.

Preliminary assessments prepared by the CIA and made available to Congressional committees were understood to

have come down far below the estimate, according to Mr. Laird's arguments about Soviet capabilities.

According to intelligence officials, Mr. Helms, aware of the political controversy surrounding the estimates, stressed some of the limitations of the first survey — without altering the basic conclusions — as part of an unnecessary contradiction between the CIA and the Pentagon.

The bureaucrats' failed of achieving a consensus position among various Government agencies has stirred Congressional interest in the reliability of the raw intelligence and the means by which raw data are analyzed.

In policy controversies, particularly on strategic arms questions, individual agency tentatively or preliminary assessments are portrayed as the latest authoritative intelligence as they are passed around among participants in the debate.

The purpose of the United States Intelligence Board is to provide a high-level forum for the entire intelligence community to meet and try to achieve a nonpartisan consensus for the President.

Mr. Helms acts as the spokesman for the community and the CIA in policy-making councils. Pentagon and State Department intelligence assessments can also be called to the President's attention independently by Mr. Laird, by the chairman of the Joint Chiefs of Staff, Gen. Earle G. Wheeler, and by Mr. Rogers.

House Votes Payroll Bill

WASHINGTON, June 17 (AP) — The House sent to the Senate, by voice vote today an emergency resolution approving funds for June payrolls for agencies whose pay money is tied up in another bill. Most of the payrolls are not due until June 30, but postal field workers have a paycheck due this Thursday.

GIVE A KID A CAMP
VIA FRESH AIR FUND.

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24. Hedrick Smith, in the June 3, 1969, edition of the New York Times, reported that the President had determined to remove nuclear weapons from Okinawa in the upcoming negotiations with Japan over the reversion of the Island. The article stated that the President's decision had not yet been communicated to Japan, thereby preempting the possibility of obtaining a more favorable outcome during the negotiations.

		Page
24a	Article by Hedrick Smith, "U.S. Said To Plan An Okinawa Deal Barring A-Bombs", <u>New York Times</u> , June 3, 1969, p. 1, Col. 5.....	180
24b	Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-12, signed November 26, 1973, p. 6.....	182

June 3, 1969

U.S. SAID TO PLAN AN OKINAWA DEAL BARRING A-BOMBS

Nixon Decision Reported—
Timing Hinges on Terms for
Isle's Return to Japan

By HEDRICK SMITH
Special to The New York Times

WASHINGTON, June 2—President Nixon has made a decision to remove American nuclear weapons from Okinawa once an over-all plan for turning the island back to Japanese rule has been agreed upon, well-placed informants disclosed today.

The actual timing of the removal of the weapons to other sites in the Pacific area will depend on the terms of the reversion agreement, the sources indicated. Japan wants the weapons removed and the island returned, with the rest of the Ryukyu chain, by 1972.

Mr. Nixon's decision, reportedly taken after a National Security Council meeting in late April on the Okinawan question and related issues, is an important one. It is understood to reflect the judgment of the President's civilian advisers that maintenance of sound, long-term relations with Japan is more important than the military advantage of retaining complete freedom of operation on Okinawa.

Negotiations to Continue

Informed sources said Mr. Nixon's decision had not yet been communicated formally to the Japanese Government. But presumably it will be made known in the course of negotiations with Tokyo on the Okinawa issue this summer and fall.

The Japanese Foreign Minister, Kiichi Aichi, met with President Nixon for 40 minutes this morning at the White House to present his Government's request that the Ryukyu Islands be returned to Japanese rule by 1972.

The Ryukyus were captured by American forces in a bloody battle in the late stages of World War II. The peace treaty provided for United States administration of the islands, but Washington has acknowledged that Japan retained nominal sovereignty over them and gave a pledge that the islands would eventually revert to Japanese rule.

A Defense 'Keystone'

In the intervening years, the United States has built a multi-billion-dollar complex of bases that Defense Department officials describe as the "keystone" of the American defense network in the Pacific.

After years of hearing American commitments in principle to return the islands to Japan, Japanese public opinion has become insistent on obtaining a specific timetable from Washington. The status of the American bases and terms governing their operation after reversion have become the central problem in relations between Tokyo and Washington.

Mr. Aichi's call on President Nixon this morning marked the formal beginning of negotiations between the two Governments on the issue, though there have been months of preliminary discussions at lower levels. The negotiations are expected to culminate in November with a visit to Washington by Japan's Premier, Eisaku Sato.

Mr. Aichi told the President today that Japan would like American bases in Okinawa to function after reversion on the same basis as United States installations in Japan proper.

Under present conditions, with the Ryukyus governed by a United States administration headed by a military High Commissioner, the United States has complete freedom to move nuclear weapons too and from the islands and store them there. It can also mount offensive operations against other parts of Asia, such as B-52 bombing raids against Vietnam.

Nuclear weapons are barred from United States bases in Japan proper, and under terms of the two countries' security treaty, the United States must obtain Japan's approval in "prior consultations" before using her bases in Japan for combat operations in other Asian areas.

American and Japanese sources reported that President Nixon was noncommittal on the particulars of the Okinawa problems in his meeting with Mr. Aichi today. The Foreign Minister will enter into

detailed talks in the next few days with Secretary of State William P. Rogers and Secretary of Defense Melvin R. Laird. Today, the Foreign Minister underscored his country's sensitivity on the question of nuclear weapons on the soil of Japan, the only nation to have been subjected to nuclear attack.

"Mr. Aichi stressed that we Japanese people have unique feelings toward anything nuclear," A Japanese Embassy spokesman said. "He stressed that, in considering the Okinawa question, President Nixon should also consider the importance of the stability of Japanese politics and future cooperation between Japan and the United States."

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as to the integrity of the USIB and created severe doubts about our ability to maintain security in deliberations on national security policy.

6. Also of serious concern during this period was a press leak involving this country's policy toward Japan and our strategy for negotiations on the reversion of Okinawa. Following a late April meeting of the National Security Council, a National Security Decision Memorandum was issued on May 28, 1969, outlining this country's policy toward Japan, and particularly our negotiating strategy with respect to the reversion of Okinawa. This memorandum set forth our desire to retain nuclear weapons on Okinawa but stated, as a fallback position, that we would be prepared to consider the withdrawal of these weapons while retaining the storage and transit rights. Shortly after this memorandum was completed, and prior to the negotiations with the Japanese, an article by Hedrick Smith appeared in the New York Times on June 3, 1969, stating that the President had decided to remove nuclear weapons from Okinawa once an overall plan to return the Island had been agreed upon. The article noted that the President's decision had not yet been communicated formally to the Japanese Government. The consequences of this disclosure, attributed to well-placed informants, in terms of compromising negotiating tactics, prejudicing the Government's interest, and complicating our relations with Japan were obvious, and clearly preempted any opportunity we might have had for obtaining a more favorable outcome during our negotiations with the Japanese.

7. In early May, 1969, after the first several unauthorized disclosures of classified information had occurred, the President consulted the then Director of the Federal Bureau of Investigation, J. Edgar Hoover, and the then Attorney General of the United States, John N. Mitchell, concerning methods to be employed to deal with the problem. The President was told

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25. Morton Halperin was chief of the National Security Council planning group and therefore was one of several persons having access to the information which leaked. In this position and during his tenure as consultant to the NSC, Dr. Halperin received extensive exposure to classified information much of which remains confidential to this day. Dr. Halperin was removed from access to sensitive material regarding national security matters following publication of one of the Beecher articles in the New York Times.

		Page
25a	Morton Halperin affidavit, <u>Halperin v. Kissinger</u> , D.C.D.C., C.A. No. 1187-73, signed November 30, 1973.....	184
25b	Henry A. Kissinger affidavit, (<u>In Camera</u>), <u>Ellsberg v. Mitchell</u> , D.C.D.C., C.A. No. 1879-72, signed November 26, 1973, pp. 7-9.....	188

but that others would not. He noted that Alexander Haig is informed me previously, a number of high level figures in the Nixon Administration were suspicious of my political views, and considered me disloyal to the administration. He informed me that for a period of time he would not give me access to any of the more sensitive information regarding national security matters. That way, he stated, if any information leaked I could not be blamed.

3. This period lasted until I resigned from the staff of the National Security Council in September of 1969. After May 9, 1969 I was given no access to sensitive material including information relating to private Vietnam negotiations, negotiations with the People's Republic of China, White House negotiations with the Soviet Union, and plans for troop withdrawals from Vietnam. Kissinger and defendant Alexander Haig were fully aware of this since they personally controlled access to such information.*/ From May 9, 1969 on, my access was limited to information available to hundreds of others in the White House and the department of the Executive Branch. A number of other officials had access to the information about the bombing of Cambodia and, at least according to press reports, were not tapped. On the National Security Council staff, these

*/ On one such matter--private Vietnam negotiations--Haig has so testified under oath at the so-called Pentagon Papers trial. He testified: "I would say from the period January '69 until his departure from the staff in August of '69 Mr. Halperin had regular access to the regular reporting traffic on the conduct of the formal negotiations within the Paris framework which had been established for some period and which was reconvened that year. He would have had full access to those as a member of the staff involved in South-east Asian and other affairs. He would not have had access to the more sensitive, third-party reports which were not occurred during that period." (Transcript, p. 20,025.)

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included Henry A. Kissinger, Alexander Haig, and Lawrence Eagleburger. Other officials, unknown to me, in the Departments of State and Defense also had access to this information. Information leaked to the press on other subjects was also available to a number of officials.

4. On August 6, 1969, I informed Kissinger of my desire to leave the National Security Council staff as soon as possible. At his request, my departure was delayed until September 19, 1969. Also at his request I agreed to become a consultant to him.

5. On September 19, 1969 I left the NSC staff and was notified that I had been appointed a consultant effective September 21, 1969.

6. On May 4, 1970, I sent Kissinger a letter resigning as a consultant. On May 13, I received a letter from Kissinger "confirm[ing] that you will no longer be carried on the rolls of the National Security Council staff for possible future consultation."

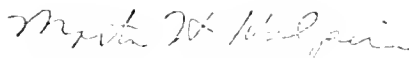
7. During the period September 20, 1969 to May 13, 1970, I had no access to any classified information. This was well known to Kissinger and Haig since only they would have given me access. (See also Haig testimony quoted above.)

8. During this period, I was employed by the National Security Council for only one day. On that day I wrote, at Kissinger's request, a memorandum on Vietnam. I had no access to classified information in the course of writing that paper.

9. After leaving the staff of the National Security Council in the period of September 1969 to February 1971, I engaged in a number of activities reflecting my political beliefs.

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I wrote articles for newspapers. I consulted with Senators, Congressmen, and their staffs on what positions they might take on public issues including Vietnam. In particular, I consulted with a number of people advising Senator Edward Brooke in connection with his possible candidacy for President of the United States. At the time of the American invasion of Cambodia in the Spring of 1970, I consulted with a number of American citizens about various potential forms of citizen activity to protest American policy. Discussions related to all of these activities took place on my home telephone.



Morton H. Halperin

Subscribed and sworn to

This 12th day of November, 1973



Notary Public

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by Mr. Hoover that the most effective method was that which had been followed in previous Administrations, namely the conduct of electronic surveillance in accordance with specific procedures. The President was assured by Attorney General Mitchell that such action would be in compliance with law.

My office was required by the President to submit the names of those officials who had had access to the information which had been leaked. Obviously, my office was a natural place for this information to exist; and Dr. Halperin, in his position as Chief of the National Security Council Planning Group, was unquestionably one of several persons who had had access to such information.

8. As a result of this position, which he held until September 20, 1969, and as a consultant to the National Security Council until May 13, 1970, Dr. Halperin received extensive exposure to classified information, much of which remains confidential to this day.

Dr. Halperin was involved in the organization, substantive preparation and processing of National Security Council policy reviews, and his assignments gave him access to fundamental policy issues during the formative and crucial early months of 1969. During the period from January until May 1969, Dr. Halperin regularly participated, in conjunction with the responsible staff area specialists, in sensitive National Security Council studies. In addition, he also frequently attended National Security Council Review Group Meetings, which I chaired, and which considered a variety of subjects, including the United States strategic posture, strategic arms negotiations, Vietnam, the Middle East and United States trade policies, to name only a few. Dr. Halperin also participated in the preparation of papers for the President's use at meetings

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with the National Security Council covering a wide range of issues. While performing the above responsibilities, Dr. Halperin devoted particular attention to several speciality areas, including the United States' strategic posture, the SALT negotiations and the war in Vietnam. To maintain his currency in each of these areas, Dr. Halperin regularly received cables to and from our Embassies, including limited distribution cables on Vietnam and the Paris negotiations, as well as daily intelligence reports and sensitive intelligence publications.

9. Dr. Halperin's name and the names of other individuals were provided to the Federal Bureau of Investigation for their investigation. On May 13, 1969, I received a letter from Director Hoover indicating that on the basis of independent information available to him, it appeared probable that recent leaks had come "from a staff member such as Morton M. Halperin of the National Security Council." Director Hoover further stated specifically that "we should not ignore the possibility that Halperin . . . could be the source of a leak" and that he therefore had alerted the Bureau's most sensitive sources (i. e., electronic surveillance).

10. However, notwithstanding the investigation of Dr. Halperin and others being conducted by the Federal Bureau of Investigation, and additional governmental efforts to curb the unauthorized disclosure of classified information, press leaks involving Southeast Asia, SALT, the Middle East, NATO and other national security matters continued through 1969, 1970 and 1971. Such disclosures necessitated issuing a memorandum on May 23, 1970, to several government agencies regarding the SALT negotiations, in which I stated that:

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Vital national interests are being jeopardized by leaks to the press concerning the strategic arms limitation talks. No one in the Government is authorized to divulge the United States or Soviet positions to the press or to speculate concerning United States' intentions with respect to the negotiations.

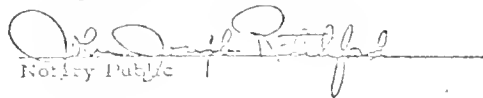
The President has directed that immediate steps be taken to ensure that standing directives concerning leaks are adhered to without exception by personnel under your jurisdiction. Prompt and severe disciplinary action is to be taken in the event of violations.

Throughout this period, leaks of information which could have serious adverse effects upon our national security and our relations with our allies continued.

11. From the commencement of the electronic surveillance of Dr. Halperin in May of 1969 until May, 1970, I was provided periodic summaries of the information gained from this surveillance of his conversations which the Federal Bureau of Investigation determined to involve national security. However, in late May of 1970, it was decided that such reports would be directed to the office of Mr. H. R. Haldeman, then an Assistant to the President, and that Mr. Haldeman would advise the President, General Haig, then an assistant on my staff, or myself, of information that required our attention. In addition, an informal liaison was maintained between Mr. Sullivan of the Federal Bureau of Investigation and General Haig of my staff, and if the surveillance of Dr. Halperin developed information of sufficient gravity, Mr. Sullivan would call General Haig and either inform him of that fact or call his attention to the fact that a report containing that information had been sent to Mr. Haldeman. I remember only one such event, but there may have been others.


HENRY A. KISSINGER

Subscribed and sworn to before me this 26th day of November, 1973.


Notary Public

My Commission expires May 31 1978

*NOTE: THERE WAS NO PARAGRAPH 26 IN
THE NOTEBOOK PRESENTED TO THE
COMMITTEE ON THE JUDICIARY.*

27. A letter dated September 12, 1973 from Attorney General Elliot Richardson to the Senate Foreign Relations Committee referring to the placement of these seventeen national security wiretaps stated that "the Department of Justice scrupulously observes the law as interpreted by the courts."

	Page
27a Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973.....	194

Secretary of State, you would feel it incumbent and important to undertake to clarify overall policy because it bears upon the dialogue that we can generate between your Office and this committee and the Congress.

Mr. Kissinger: Let me see whether I can elicit a statement which you would either submit for the record or give in some other form that would satisfy your question.

[The information referred to follows:]

OFFICE OF THE ASSISTANT SECRETARY,
Washington, D.C., September 11, 1973

Hon. J. W. Fulbright,
Chairman, Senate Foreign Relations Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: During the confirmation hearings of Dr. Kissinger, a question was raised as to this Administration's position concerning the power of the Executive to conduct electronic surveillance without warrant in the national security field. Dr. Kissinger said that he would try to elicit a statement for the record that would clarify our general policy on this matter.

I believe that there will continue to be situations which justify the conduct of electronic surveillance for the purposes of national security. This surveillance is carried out to meet the obligations of the President as both Commander-in-Chief and as the Nation's instrument for foreign affairs. I will continue to attempt to ensure that a genuine national security interest is, in fact, involved whenever we invoke this power and that we operate within the limits set by Congress and the courts.

The Department of Justice scrupulously observes the law as interpreted by the courts. There may be questions as to what certain decisions mean and whether surveillance, such as that discussed by the committee, has been affected by later court decision. These and other issues are before the courts now and we expect any ambiguities to be settled within the normal judicial process. The policy statement that follows therefore refers to procedures for any surveillance that may be carried out at present.

A year ago in the *Keith* case (407 U.S. 297), the Supreme Court ruled unanimously that the Government may not carry on electronic surveillance in domestic security operations, as opposed to foreign intelligence operations, without first obtaining a judicial warrant. The Court pointed out that it was condemning warrantless electronic surveillance carried out in domestic security cases directed at a "domestic organization (whether formally or informally constituted) composed of citizens or the United States and which has no significant connection with a foreign power, its agents or agencies." The *Keith* decision necessarily is Departmental policy and is being followed.

Although the *Keith* case did not address warrantless national security electronic surveillance, to date, the lower courts which have addressed this problem have agreed with the contention of this Department that a judicial warrant is not a necessary requirement for the Government's use of electronic surveillance to obtain foreign intelligence or foreign policy information necessary for the protection of national security. *E.g., United States v. Clay*, 430 F. 2d 165 (5th Cir. 1970), reversed on other grounds, 303 U.S. 698 (1971); *United States v. Brown*, 317 F. Supp. 531 (E.D. La., 1970) affirmed, No. 72-2181 (5th Cir., Aug. 22, 1973); *United States v. Smith*, 321 F. Supp. 424 (C.D. Calif. 1971); *Zeebach v. Mitchell*, 42 U.S. L. Week 2054 (1973). Pending a decision on this issue by the Supreme Court, I believe that we are justified in relying on the case law as it is being developed in the lower courts to conduct national security electronic surveillance, without warrant, in a limited number of cautiously and meticulously reviewed instances.

When Congress enacted legislation in 1968 requiring a judicial warrant for the use of electronic surveillance in investigations of violations of certain criminal laws, it made clear that it did not intend to add or subtract from whatever measure of constitutional power the President may have to use electronic surveillance in the national security field. However, as a guide, it set forth a number of purposes, divided between the domestic and foreign aspects of national security, that it understood to be proper for the exercise of Presidential power. The *Keith* decision subsequently held that this power could not, in the absence of a warrant, be exercised for the domestic security purposes mentioned by Con-

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gress. However, as a matter of policy, I shall keep in mind the confines of the President's power suggested by Congress in the BOSS law as it relates to foreign intelligence. In general, before I approve any new application for surveillance without a warrant, I must be convinced that it is necessary (1) to protect the nation against actual or potential attack or other hostile acts of a foreign power; (2) to obtain foreign intelligence information deemed essential to the security of the United States; or (3) to protect national security information against foreign intelligence activities. 18 U.S.C. 2511(3).

As the Supreme Court itself observed in *Keith*, it may well be difficult to distinguish between "domestic" and "foreign" unlawful activities directed against the United States where there are relationships in varying degrees between domestic groups or organizations and foreign powers, or their agents. All I can say is that, as the applications are presented to me, I will, together with my staff, try scrupulously to follow the guidance and instruction given to us by Congress and the courts, bearing in mind the importance of balancing individual privacy with the needs of national security.

In addition, there is ongoing in the Department a full-scale effort under my and Bill Bruegelhaus' immediate supervision to derive new standards and guidelines for use of electronic surveillance in both domestic criminal matters, as well as for national security purposes. It is our hope that we will be able to give these standards precise public articulation and thus foster better understanding of the scope and nature of our limited use of electronic surveillance. Also, as I mentioned the other day, the new FBI Oversight Subcommittee of the Senate Judiciary Committee will allow the Congress to be better informed about these activities.

With kindest regards,
Sincerely,

ELLIOT L. RICHARDSON,
Attorney General

Senator MUSKIE: I think there was some reference you made earlier in our discussion that you might supply for the record; I would like to go over that later and see if you could supply it for the record.

I think my time is up, Dr. Kissinger, but there are other areas that I would like to touch upon. I am sure we are going to have the opportunity to do so, including some substantive areas in the field of arms control, for example.

The CHAIRMAN: Senator Humphrey.

Senator HUMPHREY: Thank you very much, Mr. Chairman.

I will have to go down and cast a vote and I wasn't quite sure I ought to leave before my turn came. So I think you are going to be spared. I think we have a relatively short time to cast this vote.

COMMENDATION OF WITNESS

Dr. Kissinger, first I want to commend you on not only your statement, sir, which is a brilliant statement of purpose and philosophy, but on your service to this country in the cause of international peace and understanding. I say that as one who has observed you for many years, both as a great professor and as a practitioner in the art of diplomacy.

Just a few direct questions.

U.S. SUPPORT OF AFRICAN DEVELOPMENT BANK

You mentioned your support of multinational and multilateral institutions, such as the Asian Development Bank and others. The administration has not seen fit to make an investment in the African Development Bank even though there has been a commitment. I be-

28. There was clear legal authority on the legality of warrantless national security wiretaps at the time the seventeen wiretaps were conducted.

28a United States v. Clay, 430 F.2d 165 (5th Cir. 1970), reversed on other grounds, 403 U.S. 698 (1971).

28b United States v. Brown, 317 F. Supp. 531 (E.D. La. 1970), affirmed, 434 F.2d 413 (5th Cir. 1973).

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE ENTIRE PARAGRAPH IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

29. After the termination of these seventeen taps, the Supreme Court stated that the legality of foreign policy warrantless wire-tapping was an open question. Attorney General Richardson has indicated that under these circumstances, the Department of Justice can reasonably rely on decisions of lower courts in justifying these wiretaps. Under current legal standards, warrantless foreign policy wiretapping is legal.

	Page
29a	<u>United States v. United States District Court</u> , 407 U.S. 297 (1972).
29b	Henry Kissinger testimony, Senate Foreign Relations Committee, September 7, 1973, pp. 55-56. Letter from Elliot Richardson to Hon. J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, dated September 12, 1973..... 200
29c	<u>United States v. Butenko</u> , 494 F.2d 593 (3rd Cir. 1974).

NOTE: OBJECTION HAS BEEN RAISED BY CONGRESSMAN SEIBERLING THAT THE LAST SENTENCE IS A CONCLUSION RATHER THAN A STATEMENT OF INFORMATION WITHIN THE RULES OF PROCEDURE OF THE COMMITTEE.

For the Secretary of State, you would feel it be important and important to attempt to clarify overall policy because it bears upon the climate that we can generate between your Office and this committee and the Congress.

Mr. Kissinger: Let me see whether I can elicit a statement which we could either submit for the record or give in some other form that would satisfy your question.

[The information referred to follows:]

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., September 12, 1973.

Hon. J. W. FRENCH,
Chairman, Senate Foreign Relations Committee,
Washington, D.C.

Hon. Mr. CHAIRMAN: During the confirmation hearings of Dr. Kissinger, a question was raised as to this Administration's position concerning the power of the Executive to conduct electronic surveillance without warrant in the national security field. Dr. Kissinger said that he would try to elicit a statement for the record that would clarify our general policy on this matter.

I believe that there will continue to be situations which justify the conduct of electronic surveillance for the purposes of national security. This surveillance is carried out to meet the obligations of the President as both Commander-in-Chief and as the Nation's instrument for foreign affairs. I will continue to attempt to ensure that a genuine national security interest is, in fact, involved whenever we invoke this power and that we operate within the limits set by Congress and the courts.

The Department of Justice scrupulously observes the law as interpreted by the courts. There may be questions as to what certain decisions mean and whether surveillance, such as that discussed by the committee, has been affected by later court decision. These and other issues are before the courts now and we expect any ambiguities to be settled within the normal judicial process. The policy statement that follows therefore refers to procedures for any surveillance that may be carried out at present.

A year ago in the *Keith* case (407 U.S. 297), the Supreme Court ruled unanimously that the Government may not carry on electronic surveillance in domestic security operations, as opposed to foreign intelligence operations, without first obtaining a judicial warrant. The Court pointed out that it was condemning warrantless electronic surveillance carried out in domestic security cases directed at a "domestic organization (whether formally or informally constituted) composed of citizens of the United States and which has no significant connection with a foreign power, its agents or agencies." The *Keith* decision necessarily is Departmental policy and is being followed.

Although the *Keith* case did not address warrantless national security electronic surveillance, to date, the lower courts which have addressed this problem have agreed with the contention of this Department that a judicial warrant is not a necessary requirement for the Government's use of electronic surveillance to obtain foreign intelligence or foreign policy information necessary for the protection of national security. *E.g.*, *United States v. Clay*, 420 F. 2d 185 (5th Cir. 1970), *reversed on other grounds*, 403 U.S. 698 (1971); *United States v. Brown*, 317 F. Supp. 531 (E.D. La., 1970) *affirmed*, No. 72-2181 (5th Cir., Aug. 22, 1973); *United States v. Smith*, 321 F. Supp. 424 (C.D. Calif. 1971); *Zerebon v. Mitchell*, 42 U.S. L. Week 2054 (1973). Pending a decision on this issue by the Supreme Court, I believe that we are justified in relying on the case law as it is being developed in the lower courts to conduct national security electronic surveillance, without warrant, in a limited number of cautiously and meticulously reviewed instances.

When Congress enacted legislation in 1968 requiring a judicial warrant for the use of electronic surveillance in investigations of violations of certain criminal laws, it made clear that it did not intend to add or subtract from whatever measure of constitutional power the President may have to use electronic surveillance in the national security field. However, as a guide, it set forth a number of purposes, divided between the domestic and foreign aspects of national security, that it understood to be proper for the exercise of Presidential power. The *Keith* decision subsequently held that this power could not, in the absence of a warrant, be exercised for the domestic security purposes mentioned by Con-

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gress. However, as a matter of policy, I shall keep in mind the contours of the President's power suggested by Congress in the 1968 law as it relates to foreign intelligence. In general, before I approve any new application for surveillance without a warrant, I must be convinced that it is necessary (1) to protect the nation against actual or potential attack or other hostile acts of a foreign power; (2) to obtain foreign intelligence information deemed essential to the security of the United States; or (3) to protect national security information against foreign intelligence activities. 18 U.S.C. 2511(3).

As the Supreme Court itself observed in *Keith*, it may well be difficult to distinguish between "domestic" and "foreign" unlawful activities directed against the United States where there are relationships in varying degrees between domestic groups or organizations and foreign powers, or their agents. All I can say is that, as the applications are presented to me, I will, together with my staff, try scrupulously to follow the guidance and instruction given to us by Congress and the courts, bearing in mind the importance of balancing individual privacy with the needs of national security.

In addition, there is ongoing in the Department a full-scale effort under my and Bill Buckeishaus' immediate supervision to derive new standards and guidelines for use of electronic surveillance in both domestic criminal matters, as well as for national security purposes. It is our hope that we will be able to give these standards precise public articulation and thus foster better understanding of the scope and nature of our limited use of electronic surveillance. Also, as I mentioned the other day, the new FBI Oversight Subcommittee of the Senate Judiciary Committee will allow the Congress to be better informed about these activities.

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You mentioned your support of multinational and multilateral institutions, such as the Asian Development Bank and others. The administration has not seen fit to make an investment in the African Development Bank even though there has been a commitment. I be-

10. On July 15, 1977 the court-appointed panel of experts filed their final report on the 18-1/2-minute gap on the June 20, 1972 EOB tape. One of the bases supporting the panel's final conclusions is the assumption that the Chas 5000 recorder used by Paula McCoy Woods was functioning normally when it produced the erasure and burn on the June 20, 1972 EOB tape.

	Page
30 a. <u>The EOB Tape of June 20, 1972, Report for a Technical Investigation, Conducted for the U. S. District Court for the District of Columbia by the Advisory Panel on White House Tapes, May 31, 1974, p. 3.....</u>	204

recorder with associated foot pedal, marked Government Exhibits 60 and 60B. The Exhibit 60 Uher had been twice modified by the Secret Service before we received it, once to disable its recording function and again to restore this function. It was operating normally when we received it, but was noticeably more sensitive to interference on the power line than other Uher 5000 recorders that we used.

3. What We Assumed and How It Affected Our Task

The Panel made certain assumptions in undertaking its studies. One was that the equipment used in the White House and Executive Office Building was substantially as described to us. On the basis of this information, we considered only two types of recorders (Sony 800B and Uher 5000) in seeking an explanation of the buzz section of the Evidence Tape. We were informed also that only the two Uher's were candidates for the machine that produced the buzz section of the Evidence Tape. Our identification of Exhibit 60 as that machine rests on the correctness of this information.

We assumed, in the absence of data to the contrary, that the equipment was functioning more or less normally when the original recording was made and when a part of it was overwritten by buzz. Most of the equipment supplied to us performed normally when we began to use it and continued to perform normally throughout our tests. A notable exception was the Exhibit 60 Uher recorder, which suddenly failed after the Panel had used it for about 50 hours. Throughout the 50 hours the recorder gave no indication of abnormal operation. It responded normally to all operations of the keyboard and footpedal controls. Recordings made on the recorder before it failed showed no signs of erratic operation, such as arbitrary stopping and restarting of the recording or of the motion of the tape. The component that failed was a diode bridge-rectifier. We took it out, made measurements to analyze the failure, and found that one of the diodes had become short circuited. Then we sealed the rectifier

in an envelope, which we signed and gave to U. S. Marshals to keep with the Exhibit 60 Uher in the possession of the Court. We installed a replacement rectifier in the recorder, which thereafter operated normally in all respects, throughout all the remaining tests we performed.

Our initial tests led us to conclude that the erasure rather than the buzz was responsible for obliterating the original recording. As a result, we placed little emphasis on finding the exact source of the buzz, except to note that it resembled power line interference and that the Exhibit 60 Uher was especially sensitive to such interference.

Two additional assumptions were concerned with procedural matters. We interpreted the task set by the Court to mean that we should restrict our attention to scientific analyses of the tape and the equipment that was, or might have been, involved in the recording and re-recording operations. Thus, questions of who made the buzz, or when, or why, did not come within the scope of our investigation.

Also, we interpreted our role as scientific advisers in a situation of evident urgency to mean that we should report our conclusions to the Court as soon as the scientific evidence for those conclusions became definite. We did this in the brief Summary Report of January 15, 1974.

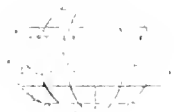
4. How We Found Out What Happened

To determine how the buzz section of the Evidence Tape of June 20, 1972, was produced, we examined the tape and made careful measurements at many points on it, paying special attention to places where we heard clicks, gaps, or other significant changes in the buzz.

We then examined the recorders and other equipment that was supplied to us and made experimental recordings with them to check their various functions and characteristics. When our tests and measurements were completed, we compared the data obtained from the Evidence Tape with data obtained from our experimental recordings. We looked for similarities and differences, to help us identify the machine functions that could have produced each of the transient events on the Evidence Tape.

31. Stanford Research Institute, Dektor Governmental Intelligence and Security, Inc. and Home Services, Inc. believe that the Ethar 5600 was malfunctioning at the time the erasure on the June 20, 1972 EOB tape was produced. They also disagree with the probable conclusion that the erasure was produced exclusively by keyboard manipulation and not by internal machine malfunction.

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May 31, 1974

REVIEW OF A REPORT SUBMITTED TO
THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
ENTITLED "THE TAPE OF JUNE 20, 1972"

SRI Project No. ISU-3191

Submitted to:

Mr. James D. St. Clair
Special Counsel to the President
The White House

Prepared by:

Michael H. L. Hecker
Senior Research Engineer
Sensory Sciences Research Center

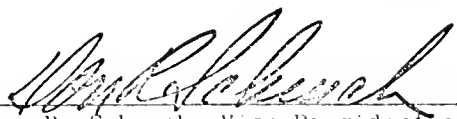
Approved:



Karl D. Kryter, Director
Sensory Sciences Research Center



Bonnar Cox, Executive Director
Information Science and Engineering Division



Don R. Scheuch, Vice President and Chairman
Research Operations

NOTE

In accordance with the terms of an agreement between Stanford Research Institute and the White House, it is understood that the White House will inform the Court of the existence of this document and will furnish the Court with copies of this document if such copies are requested.

I INTRODUCTION

This document is a review of a report entitled "The Tape of June 20, 1972," which was submitted to the United States District Court for the District of Columbia by its Advisory Panel on White House Tapes. The Panel's report describes a technical investigation that was conducted to determine the cause of an 18.5-minute erasure contained in the presidential tape of June 20, 1972.

Stanford Research Institute (SRI) was retained on January 22, 1974 by Mr. James D. St. Clair, Special Counsel to the President, to provide technical consultation for the White House. We were requested to interpret available scientific information relating to the tape of June 20, 1972. In addition to our role as consultants, we conducted some preliminary experimental work during the period January 31, 1974 to February 7, 1974. We sent our data on magnetic signatures to Mr. St. Clair on February 8, 1974, and submitted a summary report of our earlier work on February 28, 1974.

On February 18, 19, and 20, 1974 we met for the first time with the six experts of the Panel. We discussed our experiments and results, and were shown various data that the Panel had obtained from the Evidence Tape. As a result of this meeting, further experiments were conducted by the Panel and by SRI. It should be noted that at no time did SRI experiment with the Evidence Tape or with the Uher 5000 tape recorder designated Government Exhibit 60. There were several subsequent meetings with individual members of the Panel during which new data were exchanged and discussed. In the course of our association with the Panel, we have made many contributions to its work.

On May 4, 1974 we received the draft of May 3, 1974 of the Panel's report and were asked by Mr. St. Clair to prepare a written review. We submitted our review of the draft on May 10, 1974. On May 13, 1974 the Court held a closed hearing with representatives of the White House, the Office of the Special Prosecutor, the Panel, and SRI in attendance. The Court decided that the Panel's report, as well as SRI's review of this report, could be made public.

II THE PANEL'S CONCLUSIONS

In the draft of May 3, 1974 of its report, the Panel reiterated its original conclusions (first reported to the Court on January 15, 1974) with respect to the cause of the 18.5-minute erasure contained in the tape of June 20, 1972:

- "1. The erasing and recording operations that produced the buzz section were done directly on the Evidence Tape.
2. The Uher 5000 recorder designated Government Exhibit 60 probably produced the entire buzz section.
3. The erasures and buzz recordings were done in at least five, and perhaps as many as nine, separate and contiguous segments.
4. Erasure and recording of each segment required hand operation of keyboard controls on the Uher 5000 machine.
5. Erased portions of the tape probably contained speech originally.
6. Recovery of the speech is not possible by any method known to us.

7. The Evidence Tape, insofar as we have determined, is an original and not a copy."

In our report of May 10, 1974 we indicated that we were in agreement with Conclusions 1, 2, 3, 5, 6, and 7, and that we had a reservation about Conclusion 4. Our concurrence with six of these conclusions was based on our knowledge of the Panel's work: The experimental methodology used by the Panel was appropriate for the collection of relevant and reliable data. The analysis and interpretation of these data were performed with skill and professional competence.

We were uncomfortable with the degree of certainty expressed in Conclusion 4. This conclusion implied that all segments of the erasure were necessarily the result of manual operation of the keyboard controls. Our reservation about this conclusion was based on our belief that the tape recorder in question was electronically faulty at the time when the erasure was produced.

Our report of May 10, 1974 was made available to the Panel during the Court's hearing on May 13, 1974. The Panel agreed with us that Conclusion 4 was too strong and announced to the Court that it would therefore reword this conclusion as follows:

"Erasure and recording in at least five places on the Evidence Tape required hand operation of keyboard controls on the Uher 5000 machine."

The Panel held to its position that faulty operation of the machine was not materially involved in producing the erasure on the Evidence Tape.

III POSSIBLE MACHINE MALFUNCTION

We still believe that the Uher 5000 tape recorder designated Government Exhibit 60 was electronically faulty at the time when the erasure on the Evidence Tape was produced. It is our opinion that this particular machine did not perform in accordance with all of the manufacturer's specifications. Because a faulty machine can produce some marks that are similar to those observed on the Evidence Tape, we feel that possible internal malfunction must be kept in mind while developing an explanation for the 18.5-minute erasure. The Panel, however, categorically rejects any hypothesis based on internal malfunction.

We find it somewhat unreasonable to reject all hypotheses involving a faulty, and therefore possibly illogical machine, even though a few hypotheses of this kind have been formulated, tested, and rejected by the Panel and by SRI. While the hypotheses that have come to the attention of the Panel and SRI have been disproved when scrutinized theoretically or experimentally, it is still possible that an acceptable hypothesis can be advanced by other scientists.

We believe that the 30-volt power supply in Government Exhibit 60 was faulty at the time the erasure on the Evidence Tape was produced. In support of this view, we offer the following evidence:

1. At the beginning of its test program, the Panel was able to use Government Exhibit 60 to reproduce the buzz signal contained on the Evidence Tape. Later on, the machine failed to operate and the trouble was traced to a defective bridge rectifier in the 30-volt power supply. After this component was replaced, the Panel could no longer reproduce the buzz signal. This observation suggests that the power supply may have

been faulty in some respects when the erasure on the Evidence Tape was produced.

2. The buzz signal on the Evidence Tape exhibits several unexplained erratic variations in amplitude. These amplitude variations were probably caused by an intermittent condition in the power supply of the machine.
3. Twelve click marks were found on the Evidence Tape. The Panel mentions these click marks in its report, but offers no explanation as to the origin of these electrical transients. Perhaps the transients came from the power line, but a more likely explanation is that they were caused directly or indirectly by a faulty power supply in the machine.

Now, if certain intermittent conditions are present in the 30-volt power supply of a Uher 5000 tape recorder, both predictable and erratic switching activities will occur in the control circuits of the machine. Experiments conducted by the Panel and by SRI support this statement. Such switching activities may account for some of the marks observed on the Evidence Tape.

Furthermore, intermittent conditions could well produce transients that either closely resemble, or obfuscate the identification of, so-called K-1 pulses. K-1 pulses are marks produced by an internal switch that is mechanically actuated by most keyboard operations. The presence of a genuine K-1 pulse is interpreted by the Panel and by SRI as strong evidence of manual operation of the keyboard controls.

IV SUMMARY

We are in general agreement with the Panel's report, but we disagree with the Panel's treatment of an underlying issue. The substance of our disagreement is that the Panel finally and irrevocably dismissed the possibility that a faulty machine was involved in producing the erasure on the Evidence Tape. We believe that the Uher 5000 tape recorder designated Government Exhibit 60 was electronically faulty at the time when the erasure was produced. In our opinion, it is still possible that some internal malfunction of the machine, although undetermined and unexplained by the Panel and SRI, could have been partly responsible for the 18.5-minute erasure on the tape of June 20, 1972.

* * *

MICHAEL H. L. HECKER, SENIOR RESEARCH ENGINEER
SENSORY SCIENCES RESEARCH CENTER
INFORMATION SCIENCE AND ENGINEERING DIVISION

Specialized professional competence

- Speech communication; psychological acoustics; sound recording; audio instrumentation

Representative research assignments at SRI (since 1967)

- Study of consonant-vowel ratios and speaker intelligibility
- Consultation on criminal cases involving "voiceprints"
- Study of the effects of certain diseases on speech production
- Survey of research relating to speaker recognition
- Evaluation of methods for measuring aircraft noise

Other professional experience

- Senior research engineer, Bolt Beranek and Newman Inc.; conducted studies concerned with the manifestations of psychological stress and emotions in the speech signal; developed tests for measuring intelligibility and speech quality; investigated the speech-interference effects of aircraft noise
- Project officer, U.S. Army Electronics Research and Development Laboratories; had technical responsibilities in the fields of speech-signal processing and voice security; initiated a cinefluorographic study of speech production
- Staff member, Research Laboratory of Electronics, Massachusetts Institute of Technology; participated in the design, construction, and evaluation of an articulatory speech synthesizer

Academic background

- B.S. in electrical engineering, with honors (1959), Northeastern University; M.S. in electrical engineering (1961), Massachusetts Institute of Technology; Ph.D. in speech and hearing sciences (1974), Stanford University

Publications

- Fifteen articles in scientific and professional journals, including a monograph on speaker recognition, and many technical reports

Professional associations and honors

- Acoustical Society of America (fellow; chairman of the Technical Committee on Speech Communication); Society of Motion Picture and Television Engineers
- Eta Kappa Nu; Tau Beta Pi

31b. DEKTOR COUNTERINTELLIGENCE AND SECURITY, INC.
REPORT, EVALUATION OF REPORT BY THE ADVISORY
PANEL ON WHITE HOUSE TAPES, MAY 30, 1974, 42

for the U.S. District Court for the District of Columbia by the Advisory Panel on White House Tapes, Draft of May 3, 1974. Evaluation of the information contained therein has allowed us to take a considerably stronger position. It allows us to state with confidence that the panel's conclusion concerning keyboard manipulation cannot be valid and a reasonable hypothesis based upon power, supply malfunction has become probable. Attempting to prove precisely what combinations of intermittent problems in the bridge rectifier, a filter capacitor, and, possibly, with a loose ground connection, may now be an impossible task, since the rectifier bridge suffered catastrophic failure and was replaced, as was reported in the draft report, and certain unidentified ground connections were "tightened", as was reported during the previous testimony. Ultimately, the question seems to be; was the recorder manipulated at the keyboard? If it was not, what actually occurred may be academic. It is to the question that we have addressed our evaluations.

We have provided the detail of our evaluation at the attached Tabs, at which we have considered the repeatability of the displayed data, analysis of the data provided dealing with the three possible instances of buzz-on-buzz, analysis of the data provided concerning phase continuity, analysis of K1 pulse data, correction of certain apparent misconceptions concerning "record-head-on" pulses, and, lastly, a point-by-point evaluation of the panel's identification and interpretation of the observed events.

There follows a brief summary of the information contained at the six TABS:

a. The techniques employed by the panel for charting and display of wave form and spectrographic data are not sufficiently repeatable to provide the basis for definitive conclusions based upon minor or moderate differences in cross-comparisons or apparent sameness when minor or moderate differences would change the conclusion. (See TAB A for a detailed treatment of this problem.)

b. The basis which the panel uses for identification of "record-head-on" pulses appears to be without reasonable foundation. They have apparently confused pulse amplitude with pulse duration and, in this regard, have failed to note the significance of tape saturability. From the wave form traces they present concerning this type of event, it seems that any pulse, from any other source -- power line transient, switch arcing, relay contact arcing, or electrolytic capacitor pop in the audio circuits or in either power supply -- would produce a similar pulse, if its amplitude were sufficient to saturate the tape. It is our considered opinion that, when a "100 millisecond pulse" is observed in the wave form tracings, it is only evidence that a pulse of some minimum amplitude has occurred from some unidentified source, which source may be record-head turn-on.

The second problem concerning the "record-head-on" pulses is the presence of double or multiple pulses, which have been either denied or ignored by the panel. The multiple pulses seem to establish beyond question that keyboard manipulation can not have been involved in those cases where multiple pulses exist. (See TAB E for a detailed treatment of this problem.)

c. The report describes three alleged buzz-on-buzz situations in the 18.5 minute buzz section. Study of the wave form and spectrographic charts pertaining to these sections reveals no discernible buzz-on-buzz for the 1.22 second period in which it must be present if the panel's

HOME SERVICES INC.

Magnavox Home Entertainment Center
Exclusive Heights MAGNAVOX Sales & Service

A. E. JORDAN
President
J. R. JORDAN
Vice President
P. J. GIORGI
Sec'y - Treas.

3915-19 MAYFIELD ROAD
CLEVELAND HEIGHTS, OHIO 44121
DIAL - 281-7300

HOME SERVICES, INC. REPORT ON UHER 5000 TAPE RECORDER

Home Services, Inc. tested a Uher 5000 recorder, the same type and model, mechanically and electronically, as Exhibit 60. It will be described as the "H. S. Uher" in this Report.

The H. S. Uher did operate physically, mechanically and electronically in the same manner as Exhibit 60 described in the Draft Report of the Advisory Panel on the Tape of June 20, 1972. A copy of the Panel's Report was supplied for our evaluation.

We evaluated the data in the Draft Report in light of our many years of experience with tape recorder repairs and specific experience with the H. S. Uher machine. Since we had no access to the evidence tape, we must assume that the data accumulated by the panel are substantially correct. We believe, however, that not enough research was done on the recorder itself. For this reason, the Advisory Panel's conclusions do not exclude other conclusions equally supported by the Panel's data.

In our report we will be primarily concerned with the tape recorder function (or malfunction) which could have caused the 18½ minute gap and buzz on the June 20, 1972 Tape. Specifically, it is our conclusion that with the Uher 5000 tape recorder malfunctioning in the manner described in IV below, with the record button in up position, and the foot pedal being used to operate the tape transport system, both an erasure and a 60 cycle buzz can be placed on the tape leaving the marks and other data substantially as described in the Panel's Draft Report. Thus, we take issue with the Panel's Conclusions 3 and 4; that keyboard operation was necessary to produce the evidence tape in the condition described by the Panel, and that the production of the gap and buzz required several segmented stops and starts involving keyboard operation.

The Advisory Panel on Tapes assumed no malfunctioning of the Uher recorder. There is no evidence that the Panel tested for any of the malfunctions which, it has been our experience, are common in tape recorders. Our report indicates only one of the possible malfunctions which could produce the data described by the Panel. We are not prepared to rule out other malfunctions producing the same results which we did not have time to fully investigate.

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to be nearly as sensitive as Exhibit 60 to powerline disturbances of this type. Others did have small posts which occurred. This was unique in the kind of sound it produced.

MR. RYNE: You mean that it pulled more power out?

MR. WEISS: It appeared to generate more high frequency components.

Now in fact, as a kind of additional correlation of this series, during part of the testing that was going on on Exhibit 60, the Uher, it failed, died on us. We opened it up and found that a BC power supply inside, a device --

MR. RYNE: --called a diode.

MR. WEISS: This was a so-called diode bridge rectifier. There are two in a Uher. One supplies power to collenoids that activate the various functions and also to the low level high amplification circuit. The other provides power to high level that puts out signals finally. The first of these two failed. We replaced it with an identical component obtained and the device again began to function. However, now it would not produce that buzz anymore.

Now its characteristic was vitually identical to that of the other three Uhers we had tested.

MR. RYNE: Prior to the time it failed had you noticed any defect in it?

MR. WEISS: No, not in its normal performance. It moved tape, erased tape, recorded tape, played it back same as

the others. The only thing was this ability to produce a very loud high frequency content buzzing sound.

MR. RHYNE: So you are saying at the time you tested it this diode or whatever it was produced a different noise?

MR. WEISS: Conceivably it was in the process of failing

MR. RHYNE: You don't know when the process started?

MR. WEISS: No, no way of knowing it.

MR. RHYNE: You don't know whether after you received it or --

MR. WEISS: --we have no way of knowing, no, because -- well, from the very beginning, lets say from the actually the second day we began testing the devices, we were able to produce this buzz.

MR. RHYNE: Why about the first day?

MR. WEISS: The first day we couldn't, it was the first night actually. We found out, we believe the reasons we observed, there are changes in the powerline in New York at our location and at night you do not get these sharp pulses, only in the day time. We started testing at night. We did obtain the first buzz the next morning --Friday morning.

MR. RHYNE: Since you couldn't find it in the beginning isn't it possible the diode really went bad right in your possession

MR. WEISS: It is conceivable. There is a very strong correlation between these events.

By the way, there are two other possible patterns for

a buzz to being produced into this machine. One is simply through electric field pick-up. Need not have been direct electrical conduction through power input. It could have been pick-up in the machine itself. Once again, ^{when} we opened up the machine to repair the machine we replaced the diode bridge. It is possible something else was done, for example, may have been a loose grounding connection which was resecured without our realizing it as we put it together again, such that it was no longer sensitive to extraneous electro magnetic pick-up.

One other possibility we observed as your hand approached the case on the machine if there is pick-up going on you will observe a change in the hum quality.

MR. BEN-VENISTE: Is that on page 3, your explanation for the statement, "changes in the position of the operator's hand"?

MR. WEISS: That is correct. When it comes very close to the machine it does affect the hum pick-up characteristic of it.

MR. BEN-VENISTE: In experimenting you were, by moving your hand while the machine was in record mode, closer to the keys to amplify the hum?

MR. WEISS: Some small changes which are possible, yes.

MR. RHYNE: I want to make certain, while you had possession of this user that was placed in evidence, at a time you had to change the parts?

MR. WEISS: That is correct, just one part.

MR. RHYNE: That was the diode you related to the buzz?

MR. WEISS: You see we can't say for sure it was the diode bridge failure. The only thing we can say is subsequent to repair of the machine it failed to buzz in a distinctive manner. Whether it was the rectifier or some other repair that took place without our realizing we were making it at the time, we cannot say with any certainty.

MR. RHYNE: This was a new machine, was it not?

MR. WEISS: I would not know.

MR. BEN-VENISSE: Which was a new machine?

MR. WEISS: Your 60? We are talking about the Uher 5000 in evidence. We would not know.

MR. BEN-VENISSE: This has been identified as the machine which was in Miss Woods' office for approximately at least a month and beyond that we haven't had any testimony as to how old it was, I believe.

THE COURT: Any other questions?

MR. ST. CLAIR: Would you say the change in the background noise -- is that a proper way to refer to it? Could be explained by a malfunction of the diode bridge in the process of failing?

MR. WEISS: In conjunction with the presence and variation in these disturbances in the powerline, that is to say merely to have malfunction without disturbances would not

32. Hallinan's contemporaneous notes of his June 20, 1972 meeting with the President do not reflect that the President had prior knowledge of the Watergate burglary or was aware of any subsequent cover-up.

Page

32 a. In re Grand Jury, Misc. 47-73, Tr. 1307, 1308.. 224

Mr. Baldeman's notes as to the portion which preceded what is the last portion that Miss Woods testified she heard before she pressed the record button. She testified it had to do with Ealy, Nevada.

Mr. Baldeman's notes would reflect a letter which apparently the President was going to send to the Governor of South Dakota which reads:

"Dear Governor:

"Mrs. N told me of your very warm welcome on what was understandably a very sad day for the people of South Dakota. She told me of concern you expressed (re tourists). Mrs. N and I have always had a special place in our hearts for South Dakota"...because her parents were married at Lees, South Dakota, and -- and there is a crossed off portion --" and they later moved to Ealy, Nevada, her birth place."

The note continues on Page 2 at the top, says:

"Be sure EOB office is thoroughly checked re bugs at alltimes -- et cetera. What is our counter attack? PR offensive to top this. Hit the opposition with their activities. Point out liberatarians have created public what I believe is calousness. Do they justify this less than stealing Pentagon papers, Anderson File, et cetera. We should be on the watch for diversion.

Then it continues with a dash in the margin:

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